

MONTANA LEGISLATIVE HISTORY

Chapter 407 19 2001

Bill H _____ S 326 Original bill & history ✓ C

H. Committee on Appropriations

Hearing Date(s) 3/23/01 ✓ C

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Date Out _____ C

S. Committee on Agriculture

Hearing Date(s) 2/12/01 ✓ C

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Did this bill originate in an interim committee? ____ Yes ____ No

Committee _____

Report _____

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BILL NO. 326

INTRODUCED BY

(Primary Sponsor)

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS GOVERNING WEEDS; PROVIDING FOR A TAX DEDUCTION FOR THE PURCHASE OF CERTIFIED NOXIOUS WEED SEED FREE FORAGE; REQUIRING A WEED MANAGEMENT DISTRICT TO PROVIDE THE DEPARTMENT OF AGRICULTURE WITH A COMPREHENSIVE WEED MANAGEMENT PLAN BEFORE BECOMING ELIGIBLE TO RECEIVE STATE FUNDING; REQUIRING THAT THE DEPARTMENT OF AGRICULTURE REPORT TO THE APPROPRIATE INTERIM COMMITTEE; PROVIDING A TAX CREDIT FOR THE EXPENSE OF CONTROLLING NOXIOUS WEEDS; TRANSFERRING FUNDS FROM THE HIGHWAY NONRESTRICTED ACCOUNT INTO THE NOXIOUS WEED STATE SPECIAL REVENUE ACCOUNT; PROVIDING DIRECTION TO THE DEPARTMENT OF AGRICULTURE FOR THE DISBURSEMENT OF FUNDS TO WEED MANAGEMENT DISTRICTS; ALLOWING A DISTRICT WEED BOARD TO ENTER INTO COST-SHARE AGREEMENTS FOR NOXIOUS WEED MANAGEMENT; REVISING THE APPEAL PROCEDURE FOR A PERSON ADVERSELY AFFECTED BY ANY NOTICE, ACTION, OR ORDER OF THE DISTRICT WEED BOARD; CHANGING THE VIOLATION PENALTY FROM A MISDEMEANOR TO A CIVIL PENALTY; ALLOWING A DISTRICT WEED BOARD TO ENTER INTO AGREEMENTS WITH COMMERCIAL APPLICATORS FOR THE CONTROL AND DESTRUCTION OF WEEDS; ESTABLISHING STATUTORY AUTHORITY FOR COUNTY COMMISSIONERS TO IMPOSE A TAX FOR WEED CONTROL WITHIN A SPECIAL MANAGEMENT ZONE IF APPROVED BY THE CITIZENS OF THE MANAGEMENT ZONE; REQUIRING THAT MUNICIPALITIES COMPLETE THEIR COOPERATIVE AGREEMENTS WITH THEIR RESPECTIVE DISTRICT WEED BOARDS BY JANUARY 1, 2002; REQUIRING PRIOR NOTIFICATION TO THE DISTRICT WEED BOARD OF AN ACTIVITY THAT MAY REQUIRE REVEGETATION OF RIGHTS-OF-WAY AND AREAS THAT HAVE THE POTENTIAL FOR NOXIOUS WEED INFESTATION; DECREASING THE AMOUNT OF RESOURCE INDEMNITY TRUST FUND INTEREST THAT IS DEPOSITED IN THE RENEWABLE RESOURCE GRANT AND LOAN ACCOUNT AND THE RECLAMATION AND DEVELOPMENT GRANTS ACCOUNT; PROVIDING FOR THE DEPOSIT OF \$500,000 OF RESOURCE INDEMNITY TRUST FUND INTEREST INCOME INTO THE NOXIOUS WEED STATE SPECIAL REVENUE ACCOUNT; REQUIRING THE STATE TREASURER TO TRANSFER \$250,000 FROM THE TREASURE STATE ENDOWMENT FUND INTO THE NOXIOUS WEED STATE SPECIAL REVENUE ACCOUNT; REQUIRING A SELLER AGENT TO DISCLOSE TO THE BUYER OR BUYER AGENT THE PRESENCE OF NOXIOUS WEEDS

1 ON PROPERTY; EXPANDING THE CONDITIONS THAT CONSTITUTE A NOXIOUS WEED EMERGENCY
2 AND INCREASING THE AMOUNT OF FUNDS THAT CAN BE ALLOCATED TO ADDRESS NOXIOUS WEED
3 EMERGENCIES; AMENDING SECTIONS 7-22-2101, 7-22-2109, 7-22-2110, 7-22-2111, 7-22-2117,
4 7-22-2123, 7-22-2124, 7-22-2130, 7-22-2142, 7-22-2146, 7-22-2150, 7-22-2151, 7-22-2152,
5 7-22-2153, 15-38-202, 17-5-703, 37-51-313, 80-5-120, 80-7-105, 80-7-133, 80-7-801, 80-7-815,
6 80-7-816, AND 80-7-903, MCA; AND PROVIDING AN EFFECTIVE DATE."

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8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

9

10 NEW SECTION. **Section 1. Purpose.** The purpose of [sections 1 and 2] is to:

11 (1) promote the production and use of certified noxious weed seed free forage, as provided in Title
12 80, chapter 7, part 9;

13 (2) revitalize Montana's agriculture economy;

14 (3) reduce the spread of noxious weeds throughout the state; and

15 (4) assist in making certified noxious weed seed free forage economically competitive with
16 noncertified forages.

17

18 NEW SECTION. **Section 2. Deduction for purchase of certified noxious weed seed free forage.**

19 In addition to all other deductions from adjusted gross individual income allowed in computing taxable
20 income under Title 15, chapter 30, or from gross corporate income allowed in computing net income under
21 Title 15, chapter 31, part 1, a taxpayer may deduct expenditures for certified noxious weed seed free
22 forage if the expenditures were not otherwise deducted in computing taxable income.

23

24 NEW SECTION. **Section 3. Funding -- reporting requirements -- emergency exemption.** (1) (a)

25 Before a district is eligible to receive from the state any state funding or federal funding, the district shall
26 provide the department with a comprehensive weed management plan.

27 (b) Upon receipt of the district's comprehensive weed management plan by the department, the
28 district may apply for and receive state funding.

29 (c) A district's comprehensive weed management plan must be updated and submitted to the
30 department every 2 years.

(d) The department may adopt rules and procedures necessary to implement this section. The rules may not impair the ability of the district to meet its responsibilities.

(2) The department may exempt a district from the requirements of subsection (1) if a noxious weed emergency is declared by the governor as provided in 80-7-815.

NEW SECTION. Section 4. Department -- report to committee. The department shall, on an annual basis, provide the business and labor interim committee, provided for in 5-5-223, with a report containing the following information:

(1) progress in the development of comprehensive weed management plans by weed management districts;

(2) the amount of funds expended;

(3) the number and types of projects funded; and

(4) the status of weed control in Montana.

NEW SECTION. Section 5. Credit for expense of controlling noxious weeds. (1) Subject to the conditions of subsections (2) and (3), there is a credit against the tax otherwise due under this chapter for qualified expenses incurred by the taxpayer for the control of noxious weeds.

(2) For the purposes of calculating the credit, qualified noxious weed control expenses include:

(a) the purchase of pesticides, as defined in 80-8-102, that will be used on noxious weeds on property owned or leased by the purchaser; and

(b) the cost to the landowner of application of the pesticide by a commercial applicator, as defined in 80-8-102.

(3) The dollar amount of credit allowable under this section is 30% of the total qualified noxious weed control expenses for that year up to \$180.

(4) If the amount of the credit exceeds the taxpayer's liability under this chapter, the amount of the excess must be refunded to the taxpayer.

(5) If qualified noxious weed control expenses are claimed as a credit under this section by a small business corporation, as defined in 15-31-201, or by a partnership, the credit must be attributed to shareholders or partners using the same proportion used to report the corporation's or partnership's income or loss for Montana income tax purposes.

NEW SECTION. Section 6. Qualified noxious weed control tax credit. There is a credit against taxes otherwise due under this chapter allowable for qualified noxious weed control expenses. The credit must be computed in accordance with [sections 5 and 7].

NEW SECTION. Section 7. Credit for expense of controlling noxious weeds -- special management zone. (1) Subject to the conditions of subsections (2) and (3), there is a credit against the tax otherwise due under this chapter for qualified expenses incurred by the taxpayer for the control of noxious weeds.

(2) For the purposes of calculating the credit:

(a) qualified noxious weed control expenses include:

(i) the purchase of pesticides, as defined in 80-8-102, that will be used on noxious weeds on property owned by the purchaser or leased by the purchaser; and

(ii) the cost to the landowner of application of the pesticide by a commercial applicator, as defined in 80-8-102.

(b) the taxpayer must be located within a special management zone as provided in 7-22-2121(4) that is:

(i) at least 10,000 acres in size; and

(ii) composed of land owned by at least three different landowners.

(3) The dollar amount of credit allowable under this section is 30% of the total qualified noxious weed control expenses for that year up to \$500.

(4) If the amount of the credit exceeds the taxpayer's liability under this chapter, the amount of the excess must be refunded to the taxpayer.

(5) If qualified noxious weed control expenses are claimed as a credit under this section by a small business corporation, as defined in 15-31-201, or by a partnership, the credit must be attributed to shareholders or partners using the same proportion used to report the corporation's or partnership's income or loss for Montana income tax purposes.

NEW SECTION. Section 8. Transfer of funds. There is transferred \$400,000 annually from the highway nonrestricted account, provided for in 15-70-125, to the noxious weed state special revenue account, provided for in 80-7-816, for the purposes provided in [section 9].

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2 **NEW SECTION. Section 9. Weed management district program enhancement.** (1) On an annual
3 basis, the department shall distribute equally among Montana's 56 counties 60% of the funds in the
4 noxious weed state special revenue account, provided for in 80-7-816, that were collected pursuant to
5 15-38-202, 17-5-703, and [section 8] to be deposited in the county noxious weed fund as provided in
6 7-22-2141. Any unused portion must revert to the department for deposit in the noxious weed
7 management trust fund established in 80-7-811.

8 (2) On an annual basis, the department shall deposit 40% of the funds in the noxious weed state
9 special revenue account, provided for in 80-7-816, that were collected pursuant to 15-38-202, 17-5-703,
10 and [section 8] as principal in the noxious weed management trust fund established in 80-7-811.

11 (3) The weed management districts shall use the funds on a county level to enhance noxious weed
12 management programs.
13

14 **Section 10.** Section 7-22-2101, MCA, is amended to read:

15 **"7-22-2101. Definitions.** As used in this part, unless the context indicates otherwise, the
16 following definitions apply:

17 (1) "Board" means a district weed board created under 7-22-2103.

18 (2) "Commissioners" means the board of county commissioners.

19 (3) "Coordinator" means the person employed by the board to conduct the district noxious weed
20 management program and supervise other district employees.

21 ~~(3)(4)~~ "Department" means the department of agriculture provided for in 2-15-3001.

22 ~~(4)(5)~~ "District" means a weed management district organized under 7-22-2102.

23 ~~(5)(6)~~ "Native plant" means a plant endemic to the state of Montana.

24 ~~(6)(7)~~ "Native plant community" means an assemblage of native plants occurring in a natural
25 habitat.

26 ~~(7)(8)~~ (a) "Noxious weeds" or "weeds" means any exotic plant species established or that may
27 be introduced in the state ~~which~~ that may render land unfit for agriculture, forestry, livestock, wildlife, or
28 other beneficial uses or that may harm native plant communities and that is designated:

29 (i) as a statewide noxious weed by rule of the department; or

30 (ii) as a district noxious weed by a board, following public notice of intent and a public hearing.

(b) A weed designated by rule of the department as a statewide noxious weed must be considered noxious in every district of the state.

~~(8)~~(9) "Person" means an individual, partnership, corporation, association, or state or local government agency or subdivision owning, occupying, or controlling any land, easement, or right-of-way, including any county, state, or federally owned and controlled highway, drainage or irrigation ditch, spoil bank, barrow pit, or right-of-way for a canal or lateral.

~~(9) "Supervisor" means the person employed by the board to conduct the district noxious weed management program and supervise other district employees;~~

(10) "Weed management" or "control" means the planning and implementation of a coordinated program for the containment, suppression, and, where possible, eradication of noxious weeds."

Section 11. Section 7-22-2109, MCA, is amended to read:

"7-22-2109. Powers and duties of board. (1) In addition to any powers or duties established in the resolution creating a district weed board, the board may:

(a) employ a ~~supervisor~~ coordinator and other employees as necessary and provide for their compensation;

(b) purchase chemicals, materials, and equipment and pay other operational costs ~~as~~ that it determines necessary for implementing an effective noxious weed management program. The costs must be paid from the noxious weed fund.

(c) determine what chemicals, materials, or equipment may be made available to persons controlling weeds on their own land. The cost for the chemicals, materials, or equipment must be paid by the person and collected as provided in this part.

(d) enter into agreements with the department for the control and eradication of any new exotic plant species not previously established in the state ~~which~~ that may render land unfit for agriculture, forestry, livestock, wildlife, or other beneficial use if the plant species spreads or threatens to spread into the state; ~~and~~

(e) enter into cost-share agreements for noxious weed management;

(f) enter into agreements with commercial applicators, as defined in 80-8-102, for the control of noxious weeds; and

~~(g)~~(g) perform other activities relating to weed management.

(2) The board shall:

(a) administer the district's noxious weed management program;

(b) establish management criteria for noxious weeds on all land within the district;

(c) make all reasonable efforts to develop and implement a noxious weed management program covering all land within the district owned or administered by a federal agency."

Section 12. Section 7-22-2110, MCA, is amended to read:

"7-22-2110. Administrative hearing -- appeals. (1) A person adversely affected by any notice, action, or order of the board may request an administrative hearing before the ~~board~~ commissioners. The ~~board~~ commissioners shall hold a hearing within 30 days of the request. Participants may be represented by legal counsel. The ~~board~~ commissioners shall make a record of the proceeding and enter its order and findings within 7 days after the hearing.

~~{2} An order of the board may be appealed to the commissioners within 30 days from the time the order is entered. The commissioners shall hear such appeal within 30 days after the notice of appeal and shall render their order and findings within 7 days after such hearing. Participants may be represented by legal counsel.~~

~~{3}~~ (2) Within 30 days after the commissioners render their order and findings, the person adversely affected may file a petition in district court requesting that the order and findings of the commissioners be set aside or modified. The court may affirm, modify, or set aside the order complained of, in whole or in part."

Section 13. Section 7-22-2111, MCA, is amended to read:

"7-22-2111. Liability restrictions. A district, ~~as defined in 7-22-2101,~~ is liable for damages caused by its use of herbicides only for an act or omission that constitutes gross negligence. The provisions of 2-9-305 apply to board members, ~~supervisors~~ coordinators, and employees of a district."

Section 14. Section 7-22-2117, MCA, is amended to read:

"7-22-2117. Violations. (1) Any person who in any manner interferes with the board or its authorized agent in carrying out the provisions of this part or who refuses to obey an order or notice of the board is liable for a civil penalty in the amount of the actual cost to the board or the estimated cost

1 ~~of removing the noxious weeds from the impacted property in addition to any penalty imposed under~~
2 ~~7-22-2124 guilty of a misdemeanor, and upon conviction thereof, he shall be fined not to exceed \$100~~
3 ~~for the first offense and not less than \$100 or more than \$200 for each subsequent offense.~~

4 (2) All fines, bonds, and penalties collected under the provisions of this part, ~~except those~~
5 ~~collected by a justice's court, shall~~ must be paid to the county treasurer of each county and placed by him
6 ~~to the credit of the county treasurer into~~ a fund to be known as the noxious weed fund."

7

8 **Section 15.** Section 7-22-2123, MCA, is amended to read:

9 **"7-22-2123. Procedure in case of noncompliance.** (1) ~~Where~~ When a complaint has been made
10 or the board has reason to believe that noxious weeds described in this part are present upon a person's
11 land within the district in violation of the law, that person must be notified by mail or telephone of the
12 complaint and the board may request inspection of ~~such~~ the land. The board or its authorized agent and
13 the landowner or ~~his~~ the landowner's representative shall inspect the land at an agreeable time, within 10
14 days of notification of the landowner. If after reasonable effort the board is unable to gain cooperation of
15 the person, the board or its authorized agent may enter and inspect the land to determine if the complaint
16 is valid.

17 (2) If noxious weeds are found, the board or ~~supervisor~~ coordinator shall notify the person or ~~his~~
18 the person's representative and seek voluntary compliance with the district noxious weed control
19 management program. If voluntary compliance is not possible, notice of noncompliance must be sent to
20 the person by certified mail.

21 (3) The notice must specify:

22 (a) the basis for the determination of noncompliance;

23 (b) the geographic location of the area of noncompliance, by legal description or other reasonably
24 identifiable description;

25 (c) measures to be undertaken in order to comply with the district's management criteria;

26 (d) a reasonable period of time, not less than 10 days, in which compliance measures must be
27 initiated; and

28 (e) the right of the person to request, within the time specified in subsection (3)(d), an
29 administrative hearing as provided by 7-22-2110.

30 (4) A person is considered in compliance if ~~he~~ the person submits and the board accepts a

1 proposal to undertake specified control measures and is in compliance ~~for so long as~~ long as he the person
2 performs according to the terms of the proposal. If the measures proposed to be taken extend beyond the
3 current growing season, the proposal and acceptance must be in writing.

4 (5) In accepting or rejecting a proposal, the board shall consider the economic impact on the
5 person and ~~his~~ the person's neighbors, practical biological and environmental limitations, and alternative
6 control methods to be used."

7

8 **Section 16.** Section 7-22-2124, MCA, is amended to read:

9 **"7-22-2124. Destruction of weeds by board.** (1) If corrective action is not taken and ~~no a~~ proposal
10 is not made and accepted or ~~no a~~ request for an administrative hearing is not made within the time
11 specified in the notice, the board may ~~forthwith~~ enter upon the person's land and institute appropriate
12 control measures. In ~~such that~~ that case, the board shall submit a bill to the person, itemizing ~~man-hours~~ hours
13 of labor, material, and equipment time, together with a penalty not exceeding ~~40%~~ 50% of the total cost
14 incurred. Labor and equipment must be valued at the current rate paid for commercial management
15 operations in the district. The bill must specify and order a payment due date of 30 days from the date
16 the bill is sent. The board may enter into an agreement with a commercial applicator, as defined in
17 80-8-102, to destroy the weeds. The commercial applicator shall agree to carry any insurance required
18 by the board.

19 (2) A copy of the bill must also be submitted by the board to the county clerk and recorder.

20 (3) If a person receiving an order to take corrective action requests an administrative hearing, the
21 board may not institute control measures until the matter is finally resolved, except in case of an
22 emergency. In ~~such a~~ that case, the person is liable for costs as provided in subsection (1) only to the
23 extent determined appropriate by the board, commissioners, or court that finally resolves the matter."

24

25 **Section 17.** Section 7-22-2130, MCA, is amended to read:

26 **"7-22-2130. Weed district ~~supervisor~~ coordinator training.** Within the limitations of available
27 funds, the board shall ensure that the weed district ~~supervisor~~ coordinator obtains training to properly
28 implement the noxious weed management program described in 7-22-2121. The department shall specify
29 through rulemaking the level and type of training necessary to fulfill this requirement."

30

1 **Section 18.** Section 7-22-2142, MCA, is amended to read:

2 **"7-22-2142. Sources of money for noxious weed fund.** (1) The commissioners ~~may create the~~
3 ~~noxious weed fund and~~ shall create a noxious weed fund to enable the board to fulfill its duties as specified
4 in 7-22-2109.

5 (2) The commissioners may provide sufficient money in the noxious weed fund for the board to
6 fulfill its duties, as specified in 7-22-2109, by:

7 (a) appropriating money from the general fund of the county; and

8 (b) subject to 15-10-420 and at any time fixed by law for levy and assessment of taxes, levying
9 a tax of not less than 1.6 mills ~~not exceeding 2 mills~~ on the dollar of total taxable valuation in the county
10 or by contributing an equivalent amount from another source of not less than \$100,000 for first-class
11 counties, as defined in 7-1-2111. The tax levied under this subsection must be identified on the
12 assessment as the tax that will be used for noxious weed control.

13 ~~(c) levying a tax in excess of 2 mills if authorized by a majority of the qualified electors voting in~~
14 ~~an election held for this purpose pursuant to 7-6-2531 through 7-6-2536.~~

15 ~~(2)(3)~~ (3) The proceeds of the noxious weed control tax or other contribution must be used solely for
16 the purpose of managing noxious weeds in the county and must be ~~designated to~~ deposited in the noxious
17 weed fund.

18 ~~(3)(4)~~ (4) Any proceeds from work or chemical sales must revert to the noxious weed fund and must
19 be available for reuse within that fiscal year or any subsequent year.

20 ~~(4)(5)~~ (5) The commissioners may accept any private, state, or federal gifts, grants, contracts, or
21 other funds to aid in the management of noxious weeds within the district. These funds must be placed
22 in the noxious weed fund.

23 (6) The commissioners may impose a tax for weed control within a special management zone as
24 provided in 7-22-2121(4). The special management zone boundaries must be established by the board and
25 approved by a majority of the voters within the special management zone. The amount of the tax must
26 be approved by a majority of the voters within the special management zone, and approval of the zone
27 and the tax may occur simultaneously. Revenue received from a special management zone tax must be
28 spent on weed management projects within the boundaries of the special management zone."

30 **Section 19.** Section 7-22-2146, MCA, is amended to read:

1 **"7-22-2146. Financial assistance to persons responsible for weed control.** (1) The commissioners,
2 upon recommendation of the board, may establish a cost-share programs with any person, specifying costs
3 that may be paid from the noxious weed fund and costs that must be paid by the person. Cost share
4 programs may be established for special projects and for established management zones program for the
5 control of noxious weeds. The board shall develop rules and procedures for the administration of the
6 cost-share program. These procedures may include the cost-share rate or amount and for what purposes
7 cost-share funds may be used.

8 (2) (a) Any person may voluntarily enter into a cost-share agreement for the management of
9 noxious weeds on the person's property. The coordinator shall draft a cost-share agreement in cooperation
10 with the person. The agreement must, in the board's judgment, provide for effective weed management.

11 (b) The agreement must specify:

12 (i) costs that must be paid from the noxious weed fund;

13 (ii) costs that must be paid by the person;

14 (iii) a location-specific weed management plan that must be followed by the person; and

15 (iv) reporting requirements of the person to the board.

16 (c) The cost-share agreement must be signed by the person and, upon approval of the board, by
17 the presiding officer.

18 (3) The agreement must contain a statement disclaiming any liability of the board for any injuries
19 or losses suffered by the person in managing noxious weeds under a cost-share agreement. If the board
20 later finds that the person has failed to abide by the terms of the agreement, all cost-share payments and
21 agreements must be canceled and the provisions of 7-22-2124 apply to that person.

22 ~~(2)~~(4) (a) When under the terms of any voluntary agreement, whether entered into pursuant to
23 7-22-2123 or otherwise, or under any cost-share ~~program~~ agreement entered pursuant to this section a
24 person incurs any obligation for materials or services provided by the board, the board shall submit a bill
25 to the person, itemizing ~~man-hours~~ hours of labor, material, and equipment time. The bill must specify and
26 order a payment due date not less than 30 days from the date the bill is sent.

27 (b) A copy of the bill must be submitted by the board to the county clerk and recorder. If the sum
28 to be repaid by the person billed is not repaid on or before the date due, the county clerk and recorder shall
29 certify the amount ~~thereof~~ not repaid, with the description of the land to be charged, and shall enter the
30 sum on the assessment list as a special tax on the land, to be collected in the manner provided in

1 7-22-2148.

2 (5) Any person who applies for but does not receive a cost-share agreement, for reasons other
3 than inability or unwillingness to comply with the board's cost-share procedures, is required to pay any
4 bill sent to the person pursuant to 7-22-2124, minus the cost-share amount that the person would have
5 received had the person received cost-share assistance. The person is not required to pay any penalty
6 under 7-22-2124."

7

8 **Section 20.** Section 7-22-2150, MCA, is amended to read:

9 **"7-22-2150. Cooperation with state and federal-aid programs.** The board ~~is empowered to~~ may
10 cooperate with any state or federal-aid program that becomes available: if the district complies with
11 [section 3]. Under such a plan of cooperation, the direction of the program shall must be under the direct
12 supervision of the board of the district in which the program operates."

13

14 **Section 21.** Section 7-22-2151, MCA, is amended to read:

15 **"7-22-2151. Cooperative agreements.** (1) A state agency that controls land within a district,
16 including the department of transportation; the department of fish, wildlife, and parks; the department of
17 corrections; the department of natural resources and conservation; and the university system, shall enter
18 into a written agreement with the board. The agreement must specify mutual responsibilities for integrated
19 noxious weed management on state-owned or state-controlled land within the district. The agreement
20 must include the following:

21 (a) a 6-year integrated noxious weed management plan, which must be updated biennially;
22 (b) a noxious weed management goals statement;
23 (c) a specific plan of operations for the biennium, including a budget to implement the plan; and
24 (d) a provision requiring a biennial performance report by the board to the state weed coordinator
25 in the department of agriculture, on a form to be provided by the state weed coordinator, regarding the
26 success of the plan.

27 (2) The board and the governing body of each incorporated municipality within the district shall
28 enter into a written agreement and shall cooperatively plan for the management of noxious weeds within
29 the boundaries of the municipality by January 1, 2002. The board may implement management procedures
30 described in the plan within the boundaries of the municipality for noxious weeds only. Control of nuisance

1 weeds within the municipality remains the responsibility of the governing body of the municipality, as
2 specified in 7-22-4101.

3 (3) A board may develop and carry out its noxious weed management program in cooperation with
4 boards of other districts, with state and federal governments and their agencies, or with any person within
5 the district. The board may enter into cooperative agreements with any of these parties.

6 (4) Each agency or entity listed in subsection (1) shall submit a statement or summary of all
7 noxious weed actions that are subject to the agreement required under subsection (1) to the state weed
8 coordinator and shall post a copy of the statement or summary on ~~the a state bulletin board~~ electronic
9 access system."

10
11 **Section 22.** Section 7-22-2152, MCA, is amended to read:

12 **"7-22-2152. Revegetation of rights-of-way and ~~disturbed areas that have potential for noxious~~**
13 **weed infestation.** (1) Any person or state agency ~~or local government unit approving proposing~~ a mine,
14 a major facility under Title 75, chapter 20, an electric, communication, gas, or liquid transmission line, a
15 solid waste facility, a highway or road, a subdivision, a commercial, industrial, or government
16 development, or any other development resulting that needs state or local approval and that results in the
17 potential for noxious weed infestation ~~significant disturbance of land~~ within a district shall notify the board
18 at least 15 days prior to the activity.

19 (2) Whenever any person or agency ~~disturbs vegetation on an easement or right-of-way within~~
20 ~~a district by construction of constructs~~ a road, an irrigation or drainage ditch, a pipeline, an electric,
21 communication, gas, or liquid transmission line, or any other development; on an easement or right-of-way,
22 the board shall require that the ~~disturbed~~ areas be seeded, planted, or otherwise managed to reestablish
23 a cover of beneficial plants.

24 (3) (a) The person or agency ~~disturbing the land~~ committing the action shall submit to the board
25 a written plan specifying the methods to be used to accomplish revegetation at least 15 days prior to the
26 activity. The plan must describe the time and method of seeding, fertilization practices, recommended plant
27 species, use of weed-free seed, and the weed management procedures to be used.

28 (b) The plan is subject to approval by the board, which may require revisions to bring the
29 revegetation plan into compliance with the district weed management plan. ~~Upon approval by the board,~~
30 ~~the revegetation plan must be signed by the chairman of the board and the person or agency responsible~~

1 ~~for the disturbance and constitutes a binding agreement between the board and such person or agency.~~
2 The activity for which notice is given may not occur until the plan is approved by the board and signed
3 by the presiding officer of the board and by the person or a representative of the agency responsible for
4 the action. The signed plan constitutes a binding agreement between the board and the person or agency."

5
6 **Section 23.** Section 7-22-2153, MCA, is amended to read:

7 **"7-22-2153. Voluntary agreements for control of noxious weeds along roads -- liability of**
8 **landowner who objects to weed district control measures -- penalties.** (1) Any person may voluntarily seek
9 to enter into an agreement for the management of noxious weeds along a state or county highway or road
10 bordering or running through the person's land. The ~~supervisor~~ coordinator may draft a voluntary
11 agreement upon the request of and in cooperation with the person. However, the agreement must, in the
12 board's judgment, provide for effective weed management. The weed management agreement must be
13 signed by the person and, upon approval of the board, by the presiding officer. An agreement involving
14 a state highway right-of-way must also be signed by a representative of the department of transportation.

15 (2) The agreement must contain a statement disclaiming any liability of the board and, if
16 applicable, the department of transportation for any injuries or losses suffered by the person in managing
17 noxious weeds on the state or county highway right-of-way. The signed agreement transfers responsibility
18 for managing noxious weeds on the specified section of right-of-way from the board to the person signing
19 the agreement. If the board later finds that the person has failed to adhere to the agreement, the board
20 shall issue an order informing the person that the agreement will be void and that responsibility for the
21 management of noxious weeds on the right-of-way will revert to the board unless the person complies with
22 the provisions of the agreement within a specified time period.

23 (3) (a) If a person objects to weed control measures bordering a state or county highway
24 right-of-way and does not enter a voluntary agreement pursuant to subsections (1) and (2) and if the board
25 finds that the person has failed to provide alternative weed control, the board shall issue an order informing
26 the person that the management of noxious weeds on the right-of-way will be undertaken by the board
27 unless the person provides alternative weed control within 30 days.

28 (b) A person who does not provide alternative weed control within the time specified in subsection
29 (3)(a) is guilty of a misdemeanor and, upon conviction, shall be sentenced pursuant to 46-18-212 and
30 assessed the costs of weed control provided by the board. A second or subsequent conviction is

1 punishable by a fine of not less than \$500 or more than \$2,000, plus the costs of weed control provided
2 by the board."

3

4 **Section 24.** Section 15-38-202, MCA, is amended to read:

5 **"15-38-202. (Temporary) Investment of resource indemnity trust fund -- expenditure -- minimum**
6 **balance.** (1) All money paid into the resource indemnity trust fund, including money payable into the fund
7 under the provisions of 15-36-324 and 15-37-117, must be invested at the discretion of the board of
8 investments. Only the net earnings may be appropriated and expended until the fund reaches \$100 million.
9 Thereafter, all net earnings and all receipts may be appropriated by the legislature and expended, provided
10 that the balance in the fund may never be less than \$100 million.

11 (2) (a) At the beginning of each fiscal year, there is allocated from the interest income of the
12 resource indemnity trust fund:

13 (i) \$240,000, which is statutorily appropriated, as provided in 17-7-502, to be deposited into the
14 renewable resource grant and loan program state special revenue account to support the operations of the
15 environmental science-water quality instructional programs at Montana state university-northern, to be
16 used for support costs, for matching funds necessary to attract additional funds to further expand
17 statewide impact, and for enhancement of the facilities related to the programs. Any amount of the
18 appropriation in this subsection (2)(a)(i) that is not pledged to repay bonds issued prior to January 1, 1999,
19 may be deposited in a nonexpendable trust account, the income from which may be used for the purposes
20 provided in this subsection.

21 (ii) ~~\$2~~ \$1.75 million to be deposited into the renewable resource grant and loan program state
22 special revenue account, created by 85-1-604, for the purpose of making grants;

23 (iii) ~~\$1.5~~ \$1.25 million to be deposited into the reclamation and development grants special revenue
24 account, created by 90-2-1104, for the purpose of making grants; ~~and~~

25 (iv) \$300,000 to be deposited into the ground water assessment account created by 85-2-905;
26 and

27 (v) \$500,000 to be deposited into the noxious weed state special revenue account, created by
28 80-7-816, for the purposes of [section 9].

29 (b) At the beginning of each biennium, there is allocated from the interest income of the resource
30 indemnity trust fund:

1 (i) an amount not to exceed \$175,000 to the environmental contingency account pursuant to the
2 conditions of 75-1-1101;

3 (ii) an amount not to exceed \$50,000 to the oil and gas production damage mitigation account
4 pursuant to the conditions of 82-11-161; and

5 (iii) \$500,000 to be deposited into the water storage state special revenue account created by
6 85-1-631.

7 (c) The remainder of the interest income is allocated as follows:

8 (i) Thirty percent of the interest income of the resource indemnity trust fund must be allocated
9 to the renewable resource grant and loan program state special revenue account created by 85-1-604.

10 (ii) Twenty-six percent of the interest income of the resource indemnity trust fund must be
11 allocated to the hazardous waste/CERCLA special revenue account provided for in 75-10-621.

12 (iii) Thirty-five percent of the interest income from the resource indemnity trust fund must be
13 allocated to the reclamation and development grants account provided for in 90-2-1104.

14 (iv) Nine percent of the interest income of the resource indemnity trust fund must be allocated to
15 the environmental quality protection fund provided for in 75-10-704.

16 (3) Any formal budget document prepared by the legislature or the executive branch that proposes
17 to appropriate funds other than as provided for by the allocations in subsection (2) must specify the
18 amount of money from each allocation that is proposed to be diverted and the proposed use of the diverted
19 funds. A formal budget document includes a printed and publicly distributed budget proposal or
20 recommendation, an introduced bill, or a bill developed during the legislative appropriation process or
21 otherwise during a legislative session.

22 **15-38-202. (Effective July 1, 2001) Investment of resource indemnity trust fund -- expenditure**
23 **-- minimum balance.** (1) All money paid into the resource indemnity trust fund, including money payable
24 into the fund under the provisions of 15-36-324 and 15-37-117, must be invested at the discretion of the
25 board of investments. Only the net earnings may be appropriated and expended until the fund reaches
26 \$100 million. Thereafter, all net earnings and all receipts may be appropriated by the legislature and
27 expended, provided that the balance in the fund may never be less than \$100 million.

28 (2) (a) At the beginning of each fiscal year, there is allocated from the interest income of the
29 resource indemnity trust fund:

30 (i) \$240,000, which is statutorily appropriated, as provided in 17-7-502, to be deposited into the

1 renewable resource grant and loan program state special revenue account to support the operations of the
2 environmental science-water quality instructional programs at Montana state university-northern, to be
3 used for support costs, for matching funds necessary to attract additional funds to further expand
4 statewide impact, and for enhancement of the facilities related to the programs. Any amount of the
5 appropriation in this subsection (2)(a)(i) that is not pledged to repay bonds issued prior to January 1, 1999,
6 may be deposited in a nonexpendable trust account, the income from which may be used for the purposes
7 provided in this subsection.

8 (ii) ~~42~~ \$1.75 million to be deposited into the renewable resource grant and loan program state
9 special revenue account, created by 85-1-604, for the purpose of making grants;

10 (iii) ~~41.5~~ \$1.25 million to be deposited into the reclamation and development grants special revenue
11 account, created by 90-2-1104, for the purpose of making grants;

12 (iv) \$300,000 to be deposited into the ground water assessment account created by 85-2-905;
13 and

14 (v) \$500,000 to the department of fish, wildlife, and parks for the purposes of 87-1-283. The
15 future fisheries review panel shall approve and fund qualified mineral reclamation projects before other
16 types of qualified projects: and

17 (vi) \$500,000 to be deposited into the noxious weed state special revenue account, created by
18 80-7-816, for the purposes of [section 9].

19 (b) At the beginning of each biennium, there is allocated from the interest income of the resource
20 indemnity trust fund:

21 (i) an amount not to exceed \$175,000 to the environmental contingency account pursuant to the
22 conditions of 75-1-1101;

23 (ii) an amount not to exceed \$50,000 to the oil and gas production damage mitigation account
24 pursuant to the conditions of 82-11-161; and

25 (iii) \$500,000 to be deposited into the water storage state special revenue account created by
26 85-1-631.

27 (c) The remainder of the interest income is allocated as follows:

28 (i) Thirty percent of the interest income of the resource indemnity trust fund must be allocated
29 to the renewable resource grant and loan program state special revenue account created by 85-1-604.

30 (ii) Twenty-six percent of the interest income of the resource indemnity trust fund must be

1 allocated to the hazardous waste/CERCLA special revenue account provided for in 75-10-621.

2 (iii) Thirty-five percent of the interest income from the resource indemnity trust fund must be
3 allocated to the reclamation and development grants account provided for in 90-2-1104.

4 (iv) Nine percent of the interest income of the resource indemnity trust fund must be allocated to
5 the environmental quality protection fund provided for in 75-10-704.

6 (3) Any formal budget document prepared by the legislature or the executive branch that proposes
7 to appropriate funds other than as provided for by the allocations in subsection (2) must specify the
8 amount of money from each allocation that is proposed to be diverted and the proposed use of the diverted
9 funds. A formal budget document includes a printed and publicly distributed budget proposal or
10 recommendation, an introduced bill, or a bill developed during the legislative appropriation process or
11 otherwise during a legislative session. (Terminates July 1, 2009--sec. 9, Ch. 529, L. 1999.)

12 **15-38-202. (Effective July 1, 2009) Investment of resource indemnity trust fund -- expenditure**
13 **-- minimum balance.** (1) All money paid into the resource indemnity trust fund, including money payable
14 into the fund under the provisions of 15-36-324 and 15-37-117, must be invested at the discretion of the
15 board of investments. Only the net earnings may be appropriated and expended until the fund reaches
16 \$100 million. Thereafter, all net earnings and all receipts may be appropriated by the legislature and
17 expended, provided that the balance in the fund may never be less than \$100 million.

18 (2) (a) At the beginning of each fiscal year, there is allocated from the interest income of the
19 resource indemnity trust fund:

20 (i) \$240,000, which is statutorily appropriated, as provided in 17-7-502, to be deposited into the
21 renewable resource grant and loan program state special revenue account to support the operations of the
22 environmental science-water quality instructional programs at Montana state university-northern, to be
23 used for support costs, for matching funds necessary to attract additional funds to further expand
24 statewide impact, and for enhancement of the facilities related to the programs. Any amount of the
25 appropriation in this subsection (2)(a)(i) that is not pledged to repay bonds issued prior to January 1, 1999,
26 may be deposited in a nonexpendable trust account, the income from which may be used for the purposes
27 provided in this subsection.

28 (ii) ~~\$2~~ \$1.75 million to be deposited into the renewable resource grant and loan program state
29 special revenue account, created by 85-1-604, for the purpose of making grants;

30 (iii) ~~\$1.5~~ \$1.25 million to be deposited into the reclamation and development grants special revenue

1 account, created by 90-2-1104, for the purpose of making grants; ~~and~~

2 (iv) \$300,000 to be deposited into the ground water assessment account created by 85-2-905;

3 and

4 (v) \$500,000 to be deposited into the noxious weed state special revenue account, created by
5 80-7-816, for the purposes of [section 9].

6 (b) At the beginning of each biennium, there is allocated from the interest income of the resource
7 indemnity trust fund:

8 (i) an amount not to exceed \$175,000 to the environmental contingency account pursuant to the
9 conditions of 75-1-1101;

10 (ii) an amount not to exceed \$50,000 to the oil and gas production damage mitigation account
11 pursuant to the conditions of 82-11-161; and

12 (iii) \$500,000 to be deposited into the water storage state special revenue account created by
13 85-1-631.

14 (c) The remainder of the interest income is allocated as follows:

15 (i) Thirty percent of the interest income of the resource indemnity trust fund must be allocated
16 to the renewable resource grant and loan program state special revenue account created by 85-1-604.

17 (ii) Twenty-six percent of the interest income of the resource indemnity trust fund must be
18 allocated to the hazardous waste/CERCLA special revenue account provided for in 75-10-621.

19 (iii) Thirty-five percent of the interest income from the resource indemnity trust fund must be
20 allocated to the reclamation and development grants account provided for in 90-2-1104.

21 (iv) Nine percent of the interest income of the resource indemnity trust fund must be allocated to
22 the environmental quality protection fund provided for in 75-10-704.

23 (3) Any formal budget document prepared by the legislature or the executive branch that proposes
24 to appropriate funds other than as provided for by the allocations in subsection (2) must specify the
25 amount of money from each allocation that is proposed to be diverted and the proposed use of the diverted
26 funds. A formal budget document includes a printed and publicly distributed budget proposal or
27 recommendation, an introduced bill, or a bill developed during the legislative appropriation process or
28 otherwise during a legislative session. (Terminates June 30, 2014--sec. 5, Ch. 497, L. 1999.)

29 **15-38-202. (Effective July 1, 2014) Investment of resource indemnity trust fund -- expenditure**
30 **-- minimum balance.** (1) All money paid into the resource indemnity trust fund, including money payable

1 into the fund under the provisions of 15-36-324 and 15-37-117, must be invested at the discretion of the
2 board of investments. Only the net earnings may be appropriated and expended until the fund reaches
3 \$100 million. Thereafter, all net earnings and all receipts may be appropriated by the legislature and
4 expended, provided that the balance in the fund may never be less than \$100 million.

5 (2) (a) At the beginning of each fiscal year, there is allocated from the interest income of the
6 resource indemnity trust fund:

7 (i) ~~42~~ \$1.75 million to be deposited into the renewable resource grant and loan program state
8 special revenue account, created by 85-1-604, for the purpose of making grants;

9 (ii) ~~41.5~~ \$1.25 million to be deposited into the reclamation and development grants special revenue
10 account, created by 90-2-1104, for the purpose of making grants; ~~and~~

11 (iii) \$300,000 to be deposited into the ground water assessment account created by 85-2-905;
12 and

13 (iv) \$500,000 to be deposited into the noxious weed state special revenue account, created by
14 80-7-816, for the purposes of [section 9].

15 (b) At the beginning of each biennium, there is allocated from the interest income of the resource
16 indemnity trust fund:

17 (i) an amount not to exceed \$175,000 to the environmental contingency account pursuant to the
18 conditions of 75-1-1101;

19 (ii) an amount not to exceed \$50,000 to the oil and gas production damage mitigation account
20 pursuant to the conditions of 82-11-161; and

21 (iii) \$500,000 to be deposited into the water storage state special revenue account created by
22 85-1-631.

23 (c) The remainder of the interest income is allocated as follows:

24 (i) Thirty percent of the interest income of the resource indemnity trust fund must be allocated
25 to the renewable resource grant and loan program state special revenue account created by 85-1-604.

26 (ii) Twenty-six percent of the interest income of the resource indemnity trust fund must be
27 allocated to the hazardous waste/CERCLA special revenue account provided for in 75-10-621.

28 (iii) Thirty-five percent of the interest income from the resource indemnity trust fund must be
29 allocated to the reclamation and development grants account provided for in 90-2-1104.

30 (iv) Nine percent of the interest income of the resource indemnity trust fund must be allocated to

1 the environmental quality protection fund provided for in 75-10-704.

2 (3) Any formal budget document prepared by the legislature or the executive branch that proposes
3 to appropriate funds other than as provided for by the allocations in subsection (2) must specify the
4 amount of money from each allocation that is proposed to be diverted and the proposed use of the diverted
5 funds. A formal budget document includes a printed and publicly distributed budget proposal or
6 recommendation, an introduced bill, or a bill developed during the legislative appropriation process or
7 otherwise during a legislative session."

8
9 **Section 25.** Section 17-5-703, MCA, is amended to read:

10 **"17-5-703. (Temporary) Coal severance tax trust funds.** (1) The trust established under Article
11 IX, section 5, of the Montana constitution is composed of the following funds:

12 (a) a coal severance tax bond fund into which the constitutionally dedicated receipts from the coal
13 severance tax must be deposited;

14 (b) a treasure state endowment fund;

15 (c) a treasure state endowment regional water system fund;

16 (d) a coal severance tax permanent fund;

17 (e) a coal severance tax income fund; and

18 (f) a coal severance tax school bond contingency loan fund.

19 (2) (a) The state treasurer shall determine, on July 1 of each year, the amount necessary to meet
20 all principal and interest payments on bonds payable from the coal severance tax bond fund during the next
21 12 months and retain that amount in the coal severance tax bond fund.

22 (b) The amount in the coal severance tax bond fund in excess of the amount required in subsection
23 (2)(a) must be transferred from that fund as provided in subsections (3) through (5).

24 (3) (a) On January 21, 1992, and continuing as long as any school district bonds secured by state
25 loans under 20-9-466 are outstanding, the state treasurer shall from time to time and as provided in
26 subsection (3)(b) transfer from the coal severance tax bond fund to the coal severance tax school bond
27 contingency loan fund any amount in the coal severance tax bond fund in excess of the amount that is
28 specified in subsection (2) to be retained in the fund.

29 (b) The state treasurer shall transfer the amount referred to in subsection (3)(a) until and unless
30 the balance in the coal severance tax school bond contingency loan fund is equal to the amount due as

1 principal of and interest on the school district bonds secured by state loans under 20-9-466 during the
2 next following 12 months.

3 (4) (a) Beginning July 1, 1993, and ending June 30, 2013, the state treasurer shall quarterly
4 transfer to the treasure state endowment fund 75% of the amount in the coal severance tax bond fund
5 in excess of the amount that is specified in subsection (2) to be retained in the fund and in excess of
6 amounts that are transferred pursuant to subsection (3).

7 (b) Beginning July 1, 1999, and ending June 30, 2013, the state treasurer shall quarterly transfer
8 to the treasure state endowment regional water system fund 25% of the amount in the coal severance
9 tax bond fund in excess of the amount that is specified in subsection (2) to be retained in the fund and
10 in excess of amounts that are transferred pursuant to subsection (3).

11 (c) The state treasurer shall monthly transfer from the treasure state endowment fund:

12 (i) to the noxious weed state special revenue account, provided for in 80-7-816, for the purposes
13 of [section 9], the amount of available earnings until a total of \$250,000 is transferred annually; and

14 (ii) all remaining revenue to the treasure state endowment special revenue account the amount
15 of earnings required to meet the obligations of the state that are payable from the account in accordance
16 with 90-6-710. Earnings not transferred to the treasure state endowment special revenue account or the
17 noxious weed state special revenue account must be retained in the treasure state endowment fund.

18 (d) The state treasurer shall monthly transfer from the treasure state endowment regional water
19 system fund to the treasure state endowment regional water system special revenue account the amount
20 of earnings required to meet the obligations of the state that are payable from the account for regional
21 water systems authorized under 90-6-715. Earnings not transferred to the treasure state endowment
22 regional water system special revenue account must be retained in the treasure state endowment regional
23 water system fund.

24 (5) Any amount in the coal severance tax bond fund in excess of the amount that is specified in
25 subsection (2)(a) to be retained in the fund and that is not otherwise allocated under this section must be
26 deposited in the coal severance tax permanent fund. (Terminates June 30, 2013--sec. 6, Ch. 495, L.
27 1999.)

28 **17-5-703. (Effective July 1, 2013) Coal severance tax trust funds.** (1) The trust established under
29 Article IX, section 5, of the Montana constitution is composed of the following funds:

30 (a) a coal severance tax bond fund into which the constitutionally dedicated receipts from the coal

1 severance tax must be deposited;

2 (b) a treasure state endowment fund;

3 (c) a coal severance tax permanent fund;

4 (d) a coal severance tax income fund; and

5 (e) a coal severance tax school bond contingency loan fund.

6 (2) (a) The state treasurer shall determine, on July 1 of each year, the amount necessary to meet
7 all principal and interest payments on bonds payable from the coal severance tax bond fund during the next
8 12 months and retain that amount in the coal severance tax bond fund.

9 (b) The amount in the coal severance tax bond fund in excess of the amount required in subsection
10 (2)(a) must be transferred from that fund as provided in subsections (3) through (5).

11 (3) (a) On January 21, 1992, and continuing as long as any school district bonds secured by state
12 loans under 20-9-466 are outstanding, the state treasurer shall from time to time and as provided in
13 subsection (3)(b) transfer from the coal severance tax bond fund to the coal severance tax school bond
14 contingency loan fund any amount in the coal severance tax bond fund in excess of the amount that is
15 specified in subsection (2) to be retained in the fund.

16 (b) The state treasurer shall transfer the amount referred to in subsection (3)(a) until and unless
17 the balance in the coal severance tax school bond contingency loan fund is equal to the amount due as
18 principal of and interest on the school district bonds secured by state loans under 20-9-466 during the
19 next following 12 months.

20 (4) (a) Beginning July 1, 1993, and ending June 30, 2013, the state treasurer shall quarterly
21 transfer to the treasure state endowment fund 50% of the amount in the coal severance tax bond fund
22 in excess of the amount that is specified in subsection (2) to be retained in the fund and in excess of
23 amounts that are transferred pursuant to subsection (3).

24 (b) The state treasurer shall monthly transfer from the treasure state endowment fund:

25 (i) to the noxious weed state special revenue account, provided for in 80-7-816, for the purposes
26 of [section 9], the amount of available earnings until a total of \$250,000 is transferred annually; and

27 (ii) all remaining revenue to the treasure state endowment special revenue account the amount
28 of earnings required to meet the obligations of the state that are payable from the account in accordance
29 with 90-6-710. Earnings not transferred to the treasure state endowment special revenue account or the
30 noxious weed state special revenue account must be retained in the treasure state endowment fund.

(5) Any amount in the coal severance tax bond fund in excess of the amount that is specified in subsection (2)(a) to be retained in the fund and that is not otherwise allocated under this section must be deposited in the coal severance tax permanent fund."

Section 26. Section 37-51-313, MCA, is amended to read:

"37-51-313. Duties, duration, and termination of relationship between broker or salesperson and buyer or seller. (1) The provisions of this chapter and the duties described in this section govern the relationships between brokers or salespersons and buyers or sellers and are intended to replace the duties of agents as provided elsewhere in state law and replace the common law as applied to these relationships. The terms "buyer agent", "dual agent" and "seller agent", as used in this chapter, are defined in 37-51-102 and are not related to the term "agent" as used elsewhere in state law. The duties of a broker or salesperson vary depending upon the relationship with a party to a real estate transaction and are as provided in this section.

(2) A seller agent is obligated to the seller to:

(a) act solely in the best interests of the seller;

(b) obey promptly and efficiently all lawful instructions of the seller;

(c) disclose all relevant and material information that concerns the real estate transaction and that is known to the seller agent and not known or discoverable by the seller, unless the information is subject to confidentiality arising from a prior or existing agency relationship on the part of the seller agent;

(d) safeguard the seller's confidences;

(e) exercise reasonable care, skill, and diligence in pursuing the seller's objectives and in complying with the terms established in the listing agreement;

(f) fully account to the seller for any funds or property of the seller that comes into the seller agent's possession; and

(g) comply with all applicable federal and state laws, rules, and regulations.

(3) A seller agent is obligated to the buyer to:

(a) disclose to a buyer or the buyer agent any adverse material facts that concern the property and that are known to the seller agent, including the presence of plant species that are designated as noxious weeds as defined in 7-22-2101(8)(a), except that the seller agent is not required to inspect the property or verify any statements made by the seller;

- 1 (b) disclose to a buyer or the buyer agent when the seller agent has no personal knowledge of the
2 veracity of information regarding adverse material facts that concern the property;
- 3 (c) act in good faith with a buyer and a buyer agent; and
- 4 (d) comply with all applicable federal and state laws, rules, and regulations.
- 5 (4) A buyer agent is obligated to the buyer to:
- 6 (a) act solely in the best interests of the buyer;
- 7 (b) obey promptly and efficiently all lawful instructions of the buyer;
- 8 (c) disclose all relevant and material information that concerns the real estate transaction and that
9 is known to the buyer agent and not known or discoverable by the buyer, unless the information is subject
10 to confidentiality arising from a prior or existing agency relationship on the part of the buyer agent;
- 11 (d) safeguard the buyer's confidences;
- 12 (e) exercise reasonable care, skill, and diligence in pursuing the buyer's objectives and in
13 complying with the terms established in the buyer broker agreement;
- 14 (f) fully account to the buyer for any funds or property of the buyer that comes into the buyer
15 agent's possession; and
- 16 (g) comply with all applicable federal and state laws, rules, and regulations.
- 17 (5) A buyer agent is obligated to the seller to:
- 18 (a) disclose any adverse material facts that are known to the buyer agent and that concern the
19 ability of the buyer to perform on any purchase offer;
- 20 (b) disclose to the seller or the seller agent when the buyer agent has no personal knowledge of
21 the veracity of information regarding adverse material facts that concern the property;
- 22 (c) act in good faith with a seller and a seller agent; and
- 23 (d) comply with all applicable federal and state laws, rules, and regulations.
- 24 (6) A statutory broker is not the agent of the buyer or seller but nevertheless is obligated to them
25 to:
- 26 (a) disclose to:
- 27 (i) a buyer or a buyer agent any adverse material facts that concern the property and that are
28 known to the statutory broker, except that the statutory broker is not required to inspect the property or
29 verify any statements made by the seller;
- 30 (ii) a seller or a seller agent any adverse material facts that are known to the statutory broker and

1 that concern the ability of the buyer to perform on any purchase offer;

2 (b) exercise reasonable care, skill, and diligence in putting together a real estate transaction; and

3 (c) comply with all applicable federal and state laws, rules, and regulations.

4 (7) A dual agent is obligated to a seller in the same manner as a seller agent and is obligated to
5 a buyer in the same manner as a buyer agent under this section, except as follows:

6 (a) a dual agent has a duty to disclose to a buyer or seller any adverse material facts that are
7 known to the dual agent, regardless of any confidentiality considerations; and

8 (b) a dual agent may not disclose the following information without the written consent of the
9 person to whom the information is confidential:

10 (i) the fact that the buyer is willing to pay more than the offered purchase price;

11 (ii) the fact that the seller is willing to accept less than the purchase price that the seller is asking
12 for the property;

13 (iii) factors motivating either party to buy or sell; and

14 (iv) any information that a party indicates in writing to the dual agent is to be kept confidential.

15 (8) (a) The agency relationship of a buyer agent, seller agent, or dual agent continues until the
16 earliest of the following dates:

17 (i) completion of performance by the agent;

18 (ii) the expiration date agreed to in the listing agreement or buyer broker agreement; or

19 (iii) the occurrence of any authorized termination of the listing agreement or buyer broker
20 agreement.

21 (b) A statutory broker's relationship continues until the completion, termination, or abandonment
22 of the real estate transaction giving rise to the relationship.

23 (9) Upon termination of an agency relationship, a broker or salesperson does not have any further
24 duties to the principal, except as follows:

25 (a) to account for all money and property of the principal;

26 (b) to keep confidential all information received during the course of the agency relationship that
27 was made confidential at the principal's direction, except for:

28 (i) subsequent conduct by the principal that authorizes disclosure;

29 (ii) disclosure required by law or to prevent the commission of a crime;

30 (iii) the information being disclosed by someone other than the broker or salesperson; and

1 (iv) the disclosure of the information being reasonably necessary to defend the conduct of the
2 broker or salesperson, including employees, independent contractors, and subagents.

3 (10) Consistent with the licensee's duties as a buyer agent, a seller agent, a dual agent, or a
4 statutory broker, a licensee shall endeavor to ascertain all pertinent facts concerning each property in any
5 transaction in which the licensee acts so that the licensee may fulfill the obligation to avoid error,
6 exaggeration, misrepresentation, or concealment of pertinent facts."

7
8 **Section 27.** Section 80-5-120, MCA, is amended to read:

9 **"80-5-120. Definitions.** As used in this chapter, unless the context requires otherwise, the
10 following definitions apply:

11 (1) "Advertisement" means a representation, other than a representation on the label, that is
12 disseminated by any means and that relates to seed governed by the provisions of this chapter.

13 (2) "Agricultural seeds" means the seeds of grass, forage, cereal, fiber crops, and any other kinds
14 of seeds commonly recognized within this state as agricultural seeds. The term includes lawn seeds and
15 mixtures of seeds.

16 (3) "Approximate percentage" and "approximate number" mean the percentage or number with
17 the variations above and below that value as allowed according to the tolerance limits defined in the rules
18 for seed testing adopted by the association of official seed analysts.

19 (4) "Bulk" means not packaged in separate units.

20 (5) "Certifying agency" means:

21 (a) an agency authorized under the laws of a state, territory, or possession of the United States
22 to officially certify seed and that has standards and procedures to ensure the genetic purity and identity
23 of the seed certified; or

24 (b) an agency of a foreign country determined by the department to adhere to procedures and
25 standards for seed certification that are comparable to those adhered to generally by the seed certifying
26 agencies described in subsection (5)(a).

27 (6) "Conditioning" means drying, cleaning, scarifying, and other operations that could change the
28 purity or germination of a seed and require the seed lot to be retested to determine labeling.

29 (7) "Controlling the pollination" means to use a method of hybridization that will produce pure
30 seed that is at least 75% hybrid seed.

1 (8) "Dormant" means viable seeds, excluding hard seeds, that fail to germinate when provided the
2 specified germination conditions for the seed in question.

3 (9) "Flower seeds" means seeds of herbaceous plants grown for their blooms, ornamental foliage,
4 or other ornamental parts and that are commonly known and sold under the name of flower seeds in this
5 state.

6 (10) "Genuine grower declaration" means a statement signed by the grower that indicates, for each
7 lot of seed, the lot number, kind, variety, origin, weight, year of production, date, and destination of
8 shipment.

9 (11) "Germination" means the emergence and development from the seed embryo as evidence of
10 vitality when the seeds are subjected to the proper moisture and temperature conditions with proper
11 aeration for the customary length of time for each specific kind of seed, as specified in the rules for seed
12 testing adopted by the association of official seed analysts.

13 (12) "Hard seeds" means seeds that remain hard at the end of the prescribed test period because
14 they have not absorbed water because of an impermeable seed coat.

15 (13) "Hybrid", as the term applies to varieties of seed, means the first generation seed of a cross
16 produced by controlling the pollination and by combining:

17 (a) two or more inbred lines;

18 (b) one inbred or a single cross with an open pollinated variety; or

19 (c) two or more selected clones, seed lines, varieties, or species except open-pollinated varieties
20 of corn (*Zea mays*). The second generation of subsequent generations from those crosses may not be
21 regarded as hybrids. Hybrid designations must be treated as variety names.

22 (14) "Indigenous seeds" means the seeds of those plants that are naturally adapted to an area
23 where the intended use is for revegetation of disturbed sites. These plants include grasses, forbs, shrubs,
24 and legumes.

25 (15) "Inert matter" means all matter that is not seed, including broken seeds, sterile florets, chaff,
26 fungus bodies, and stones as determined by methods defined by the association of official seed analysts.

27 (16) "Kind" means one or more related species or subspecies that are known singly or collectively
28 by one common name, such as corn, oats, alfalfa, and timothy.

29 (17) "Labeling" means a tag or other device, attached to or written, stamped, or printed on a
30 container or accompanying a lot of bulk seeds, that purports to set forth the information required on the

1 seed label under 80-5-123 and that may include any other information relating to the labeled seed.

2 (18) "Lot" means a definite quantity of seed identified by a lot number or other mark, every portion
3 of which is uniform within recognized tolerances for the factors that appear in the labeling.

4 (19) "Mixture" means seed consisting of more than one kind, each in excess of 5% by weight of
5 the whole.

6 (20) "Montana certified seed grower" means a member of an authorized Montana seed certifying
7 agency who has consented to produce seed under the rules for certified classes of seed, with respect to
8 the maintenance of genetic purity and variety identity, set forth by the establishing agency.

9 (21) "Other crop seeds" means any agricultural, vegetable, or flower seeds other than the kind or
10 variety of seed or the mixture of seeds included as pure seed.

11 (22) "Person" means an individual, firm, partnership, corporation, or association.

12 (23) "Prohibited noxious weed seeds" means the seeds of plant species that are designated as
13 noxious weeds ~~under as defined in 7-22-2101(7)(a)(i)(8)(a)(i).~~

14 (24) "Protected variety" means a variety for which a certificate has been issued by the United
15 States plant variety protection office or for which an application for protection has been filed granting the
16 owner or the owner's authorized agent exclusive rights in the sale and distribution of the variety.

17 (25) "Pure live seed" means the product of the percentage of germination plus hard seed or
18 dormant seed multiplied by the percentage of pure seed, divided by 100, with the result expressed as a
19 whole number.

20 (26) "Pure seed" means seed exclusive of inert matter and all other seeds not of the seed being
21 considered, as determined by methods defined by the association of official seed analysts.

22 (27) "Restricted weed seeds" means the seeds of any plant that may adversely affect agriculture
23 or the environment and that are designated as restricted weed seeds under rules adopted by the
24 department.

25 (28) "Screening" means chaff, sterile florets, immature seed, weed seed, inert matter, and any
26 other materials removed from seed by any kind of cleaning or conditioning.

27 (29) "Seed conditioning plant" means a place of business, whether a permanent or portable facility,
28 that conditions seeds.

29 (30) "Seed dealer" means a person who sells seeds.

30 (31) "Seed labeler" means a person affixing labels to seeds, with that person's name, address, and

1 other information as required in 80-5-123.

2 (32) "Sell" means to offer for sale, expose for sale, have in possession for sale, exchange, barter,
3 or trade. The term includes furnishing agricultural seed to growers for the production of a crop on contract.

4 (33) "Stop sale" means an administrative order provided by law that restrains the sale, use,
5 disposition, and movement of a definite amount of seed.

6 (34) "Treated" means that seed has received an application of a substance or has been subjected
7 to a process for which a claim is made.

8 (35) "Type" means a group of varieties so nearly similar that the individual varieties cannot be
9 clearly differentiated except under special conditions.

10 (36) "Variety" means a subdivision of a kind that is:

11 (a) distinct, in the sense that the variety can be differentiated by one or more identifiable
12 morphological, physiological, or other characteristics from all other varieties known publicly;

13 (b) uniform, in the sense that the variations in essential⁴ and distinctive characteristics are
14 describable; and

15 (c) stable, in the sense that the variety will remain unchanged in its essential and distinctive
16 characteristics and its uniformity when reproduced or reconstituted as required by the different categories
17 of varieties.

18 (37) "Vegetable seeds" means seeds of those crops that are or may be grown in gardens or on
19 truck farms and are or may be sold generally under the name of vegetable seeds or herbs.

20 (38) "Viable" means that seeds are capable of producing a normal seedling under optimum growing
21 conditions after all forms of dormancy have been overcome, if present.

22 (39) "Weed seeds" means the seeds of all plants generally recognized as weeds within this state
23 and includes noxious weed seeds."
24

25 **Section 28.** Section 80-7-105, MCA, is amended to read:

26 **"80-7-105. Definitions.** Unless the context requires otherwise, in this chapter, the following
27 definitions apply:

28 (1) "Firm" means an individual, company, partnership, association, or corporation.

29 (2) "Nursery" means the business or location where nursery stock is grown or offered for sale;
30 or resale, or as part of a landscape service.

(3) "Nursery stock" means botanically classified plants or parts of plants. The following plants and plant materials may not be considered nursery stock:

- (a) aquatic plants used for aquarium purposes;
- (b) field crop plants and seeds;
- (c) pasture grasses;
- (d) cut plants not for propagation;
- (e) corms, tubers, and bulbs;
- (f) fruits or vegetables for human or animal consumption;
- (g) cut trees and products for processing; and
- (h) plant debris for disposal or processing.

(4) "Nursery stock certification" means the process ~~whereby~~ by which the nursery stock or other plants have been inspected and found to meet certification standards established by department rule.

(5) "Plant inspection certificate" means a document issued by the department or the plant pest regulatory agency of another state that declares that the nursery stock, plants, or plant material grown by the firm named on the certificate is apparently free of injurious plant pests.

(6) "Plant pest" means an insect, fungus, virus, bacteria, or other organism that can directly or indirectly injure or cause damage in a plant or a product of a plant and that meets the criteria as a pest established by department rule. For purposes of this chapter, noxious weeds, as defined in 7-22-2101(7)(a) ~~and (8)(a)(i)~~, or other exotic weeds are defined as plant pests."

Section 29. Section 80-7-133, MCA, is amended to read:

"80-7-133. Acts made unlawful -- penalty. (1) It is unlawful for a firm to:

(a) fail to properly identify nursery stock offered for sale at retail. Identification must include but is not limited to the common name and variety. Each nursery plant offered for sale as a separate plant must be identified. A single means of identification is allowed on each bundle of bare root seedlings, liners, or hedging grade nursery stock.

(b) falsely represent or misrepresent the name, age, variety, or class of any nursery stock sold or offered for sale;

(c) falsely represent or state that any nursery stock offered for sale, sold, or delivered was grown in or came from a certain nursery or locality, when in fact the nursery stock was grown in or came from

1 another location or nursery;

2 (d) deceive or defraud any firm in the sale of any nursery stock by substituting inferior or different
3 varieties or ages from those ordered;

4 (e) willfully or intentionally bring into this state, offer for sale or distribution within this state, or
5 ship, sell, or deliver upon any sale any nursery stock that is infected or infested with a plant pest
6 dangerous to the horticultural interests of the state; or

7 (f) sell or distribute nursery stock or cut decorative or aquarium plants declared to be noxious
8 weeds ~~under as defined in 7-22-2101(7)(a)(i)(8)(a)(i).~~

9 (2) In case of misrepresentation, false representation, deceit, fraud, substitution, or sale and
10 distribution of noxious weeds, the firm is subject to punishment as provided in 80-7-135 and is liable to
11 a party damaged or injured, to the extent of all damages sustained, to be recovered in a civil action in any
12 court of competent jurisdiction."

13

14 **Section 30.** Section 80-7-801, MCA, is amended to read:

15 **"80-7-801. Definitions.** As used in this part, the following definitions apply:

16 (1) "Crop weed" means any plant commonly accepted as a weed and for which grants for
17 management research, evaluation, and education under 80-7-814(3)(g) may be given.

18 (2) "Department" means the department of agriculture established in 2-15-3001.

19 (3) "Noxious weed" means any weed defined in 7-22-2101(7)(a)(8)(a)."

20

21 **Section 31.** Section 80-7-815, MCA, is amended to read:

22 **"80-7-815. Noxious weed emergency -- expenditure authorized.** (1) ~~if~~ The governor may declare
23 a noxious weed emergency if:

24 (a) a new and potentially harmful noxious weed is discovered growing in the state and is verified
25 by the department; ~~the governor may declare a noxious weed emergency; or~~

26 (b) the state is facing a potential influx of noxious weeds as the result of a natural disaster.

27 (2) In the absence of necessary funding from other sources, this declaration authorizes the
28 department to allocate up to ~~\$150,000~~ \$500,000 of the principal of the noxious weed management trust
29 fund to government agencies for emergency relief to eradicate or confine the new noxious weed species
30 or to protect the state from an influx of noxious weeds due to a natural disaster.

(2)(3) If the expenditure causes the principal of the trust fund to fall below \$2.5 million, it must be replenished by the interest or revenue generated by the trust fund, by the other revenue provided by this part, or by revenue obtained from the fee imposed by 61-3-510, as determined by the department."

Section 32. Section 80-7-816, MCA, is amended to read:

"80-7-816. Account -- deposit -- investment. (1) There is ~~an~~ a noxious weed account in the state special revenue fund established in 17-2-102. The interest from the noxious weed trust fund, ~~and the fee imposed in 61-3-510, and the funds directed to be deposited as provided in 15-38-202, 17-5-703, and [section 8]~~ must be deposited in the account and must be expended as provided in 80-7-814 ~~and [section 9]~~.

(2) The department may direct the board of investments to invest the funds collected under subsection (1) pursuant to the provisions of 17-6-201. The income from the investments must be credited to the account in the state special revenue fund."

Section 33. Section 80-7-903, MCA, is amended to read:

"80-7-903. Definitions. As used in this part, the following definitions apply:

(1) "Advisory council" means the Montana noxious weed seed free forage advisory council. Except as provided in 80-7-904, the council is subject to the provisions of 2-15-122.

(2) "Certification" means the state-approved and documented process of determining within a standard range of variances or tolerances that forage production fields are free of the seeds of noxious weeds, as defined in ~~7-22-2101(7)(a)(i)~~ 7-22-2101 (8)(a)(i), which process allows a person to sell the forage as noxious weed seed free and to attach approved certification identification.

(3) "Forage" means any crop, including alfalfa, grass, small grains, straw, and similar crops and commodities, that is grown, harvested, and sold for livestock forage, bedding material, or mulch or related uses and the byproducts of those crops or commodities that have been processed into pellets, cubes, or related products.

(4) "Noxious weed seed free" means that forage has an absence of noxious weed seeds within a standardized range of variances or tolerances established by department rule.

(5) "Person" means a natural person, individual, firm, partnership, association, corporation, company, joint-stock association, body politic, or organized group of persons, whether incorporated or not,

1 and any trustee, receiver, assignee, or similar representative.

2 (6) "Producer" means a person engaged in growing forage, a tenant personally engaged in growing
3 forage, or both the owner and the tenant jointly and includes a person, cooperative organization, trust,
4 sharecropper, and any other business entity, devices, and arrangements that grow forage that is proposed
5 to be certified as noxious weed seed free.

6 (7) "Sale" or "sell" means the selling, wholesaling, distributing, offering, exposing for sale,
7 advertising, exchanging, brokering, bartering, or giving away by any person within this state of any forage
8 as noxious weed seed free or certified or approved as noxious weed seed free."

9

10 **NEW SECTION.** **Section 34. Codification instruction.** (1) [Sections 1 and 2] are intended to be
11 codified as an integral part of Title 15, chapter 32, and the provisions of Title 15, chapter 32, apply to
12 [sections 1 and 2].

13 (2) [Section 3] is intended to be codified as an integral part of Title 7, chapter 22, part 21, and
14 the provisions of Title 7, chapter 22, part 21, apply to [section 3].

15 (3) [Sections 4 and 9] are intended to be codified as an integral part of Title 80, chapter 7, part
16 7, and the provisions of Title 80, chapter 7, part 7, apply to [sections 4 and 9].

17 (4) [Sections 5 and 7] are intended to be codified as an integral part of Title 15, chapter 31, part
18 1, and the provisions of Title 15, chapter 31, part 1, apply to [sections 5 and 7].

19 (5) [Section 6] is intended to be codified as an integral part of Title 15, chapter 30, part 1, and
20 the provisions of Title 15, chapter 30, part 1, apply to [section 6].

21 (6) [Section 8] is intended to be codified as an integral part of Title 80, chapter 7, part 8, and the
22 provisions of Title 80, chapter 7, part 8, apply to [section 8].

23

24 **NEW SECTION.** **Section 35. Effective date.** [This act] is effective July 1, 2001.

25

- END -

FISCAL NOTE

Bill #: SB 326

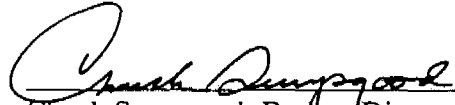
Title: Weed Eradication Through Native Environmental Techniques

Primary Sponsor: Mike Taylor

Status: As Introduced

Sponsor signature

Date


Chuck Swysgood, Budget Director

2/1/01

Date

Fiscal Summary

	<u>FY2002 Difference</u>	<u>FY2003 Difference</u>
Expenditures:		
General Fund	\$20,177	\$0
State Special Revenue	(59,050)	(59,450)
Revenue:		
General Fund	\$(300,000)	\$(300,000)
State Special Revenue	(460,000)	(425,960)
Trust Fund	460,000	460,000
Net Impact on General Fund Balance:	\$(320,177)	\$(300,000)

<u>Yes</u>	<u>No</u>		<u>Yes</u>	<u>No</u>	
X		Significant Local Gov. Impact	X		Technical Concerns
	X	Included in the Executive Budget		X	Significant Long-Term Impacts
	X	Dedicated Revenue Form Attached		X	Family Impact Form Attached

Fiscal Analysis

ASSUMPTIONS:

1. This bill would allow taxpayers who are not already doing so to deduct expenditures on certified weed-seed-free forage from taxable income for personal income tax and corporation tax. Expenditures on certified weed free hay are approximately \$2.6 million per year (Department of Agriculture).
2. Purchases by corporations and unincorporated business already are deductible as business expenses. Some individuals who buy weed free hay for personal use would deduct this expense in calculating their personal income tax, but the effect on collections would be minimal.
3. This bill would give *refundable* credits against personal income tax or corporation tax for expenses of applying herbicides to control noxious weeds. Credits for taxpayers in a special management zone are

SB 326

(continued)

- limited to the lower of 30% of expenses or \$500. Credits for taxpayers not in a special management zone are limited to the lower of 30% of expenses or \$180.
4. Private landowners spend \$1.3 million per year on noxious weed control (Department of Agriculture). If all taxpayers were able to claim a credit of 30% of expenses, credits would be \$390,000 (30% of \$1.3 million). The limits on individual credits will reduce this to \$300,000.
 5. This bill would transfer \$400,000 each fiscal year from the highway nonrestricted account to the noxious weed account.
 6. Each fiscal year, this bill would allocate \$500,000 of the interest on the resource indemnity trust to the noxious weed account. It would reduce resource indemnity trust interest allocated to the renewable resource grants and loans program by \$250,000. It would reduce resource indemnity trust interest allocated to the reclamation and development grants account by \$250,000.
 7. This bill would allocate the first \$250,000 of interest on the treasure state endowment fund to the noxious weed account each fiscal year.
 8. This bill would require the Department of Revenue to add new lines to the corporation tax return and to form 2A for individual income taxes. It also would require the department to modify its processing systems to record the information on these lines. The cost would be \$20,177 in fiscal 2002.

Department of Agriculture

9. All counties will submit a copy of their comprehensive weed management plan to the MT Department of Agriculture and; therefore, will qualify for distribution of funds from Section 9. Each county would receive \$12,321 $[(1,150,000 * 0.6) / 56]$.
10. \$460,000 $(1,150,000 * 0.4)$ per year will be deposited in the Nonexpendable Noxious Weed Trust Fund.
11. Increased interest income from the noxious weed management trust fund of approximately \$34,040 will be recognized in the state special fund in fiscal year 2003 as a result of the deposit of \$460,000. Interest rate is 7.4%. Interest earnings will grow in future years as the trust fund balance increases.
12. Existing staff will implement the provisions of SB 326.
13. Operating expenses include: rules adoption at \$400 in FY02; printing costs at \$250 in FY02 and FY03; communications at \$300 in FY02 and FY03.

Department of Corrections

14. All weed control efforts done by the Department of Corrections, Montana Correctional Enterprises (MCE) Ranch, will be done through proprietary funds and there will be no impact on the general fund. The existing and proposed budget for the MCE Ranch includes funds for noxious weed management.
15. 7-22-2151, MCA (Section 21 of SB 326) states that a state agency that controls land within a district shall enter into a written agreement with the board. The agreement will spell out the mutual responsibilities for integrated noxious weed management on state-owned or state-controlled land. Agreement includes 6-year integrated noxious weed plan, goals statement, and specific plan of operation for biennium with budget and a report to go to the state weed coordinator.
16. MCE Ranch has a representative on the Statewide Noxious Weed Program Committee that is in the process of developing a 20-year state weed plan.
17. MCE Ranch works with and is a part of the local weed control committee for the Deer Lodge Valley.
18. MCE Ranch monitors weed control activity and submits the reports required by the Department of Agriculture.
19. MCE Ranch is in the process of developing a short and long-term comprehensive weed management plan.
20. MCE Ranch along with other agricultural landholders in the Deer Lodge Valley has a grant submitted to the Legislature for weed control monies.
21. All costs associated with weed control efforts by the MCE Ranch will be borne by the proprietary fund unless some funds are made available through grant application noted in #6.

(continued)

22. Weed control by the MCE Ranch has attempted to comply with the various MCA statutes to date and will continue to do so in the future.
23. MCE Ranch weed control efforts consist of work done through Ranch supervisor and inmate labor using existing equipment and resources; and/or through the use of contracted weed control personnel.
24. Budget required for the MCE Ranch in FY02 & FY03 is already included in the base level budget for this program. Expenditures will be incurred as needed for the noxious weed control efforts.
25. MCE Ranch will need to work with the State Weed Coordinator and DOC Automation Unit to post the noxious weed actions on the state electronic bulletin board.
26. Existing process used for MCE Ranch weed control efforts will not change as a result of the requirements of this bill.

Department of Commerce

27. Treasure State Endowment projects funded in HB11 will be reduced by \$500,000.

Department of Natural Resources

28. Reduction in funds for Renewable Resource Grant and Loan fund and Reclamation and Development fund will reduce grants and loans to communities in HB6 and HB7 by \$500,000 per year.

FISCAL IMPACT:

	<u>FY2002 Difference</u>	<u>FY2003 Difference</u>
<u>Expenditures:</u>		
Operating Expenses – Dept of Revenue	\$20,177	\$0
Operating Expenses – Dept of Agriculture	950	550
Grants – Noxious Weed	690,000	690,000
Grants – Recl & Dev. Renewable Resc	(500,000)	(500,000)
Grants – Treasure St Endowment	(250,000)	(250,000)
TOTAL	(\$38,873)	(\$59,450)

Funding:

General Fund (01)	\$20,177	
State Special Revenue (02)	(59,050)	(59,450)
TOTAL	(\$38,873)	(\$59,450)

Revenues:

General Fund (01)	\$(300,000)	\$(300,000)
State Special Revenue (02)		
Noxious weed account	690,000	724,040
Highway non-restricted account	(400,000)	(400,000)
Renewable resource grants & loan	(250,000)	(250,000)
Reclamation and development	(250,000)	(250,000)
Treasure state endowment program	(250,000)	(250,000)
Trust Fund – Noxious Weed	460,000	460,000

Net Impact to Fund Balance (Revenue minus Expenditure):

General Fund (01)	\$(320,177)	\$(300,000)
State Special Revenue (02)		
Noxious weed account	(950)	33,490

(continued)

Highway non-restricted account	(400,000)	(400,000)
Renewable resource grants & loan	0	0
Reclamation and development	0	0
Treasure state endowment program	0	0
Trust Fund – Noxious Weed	460,000	460,000

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

1. This bill specifies that 60% of funds in the noxious weed account are to be distributed to counties for weed control. The amount distributed to counties would be \$690,000 each fiscal year.
2. This bill reduces funds available for local infrastructure projects through the treasure state endowment program by \$250,000 each fiscal year.

Department of Corrections

3. MCE Ranch's level of noxious weed management effort does not impact county or local expenditures as only MCE Ranch proprietary funds are used.
4. MCE Ranch's involvement in the local weed board and inclusion in the application for a grant may affect the ability of the local weed board to obtain grant funding due to the acreage and dollar expenditure involved with the MCE Ranch. This is especially important if a matching grant is used. MCE Ranch's inclusion may be the difference in the level of monies received or whether any monies are received.
5. Local county expenditure level could be impacted by their attempt to keep lands adjacent to MCE Ranch lands weed free. Without cooperation of all landowner efforts to control noxious weeds the success will be minimal.

Department of Agriculture

6. Increased annual funding to local weed districts with comprehensive management plans on file with the MT Department of Agriculture of \$12,321 each county.

Department of Natural Resources

7. Reduction in funds for Renewable Resource Grant and Loan fund and Reclamation and Development fund will reduce grants and loans to communities in HB6 and HB7.

Department of Commerce

8. The interest earnings from the Treasure State Endowment deposited into the noxious weed special revenue account in the first year of a biennium are the interest earnings first realized during the biennium, until a total of \$250,000 is deposited in the account. Projects awarded grant funding in HB 11 through the Treasure State Endowment Program (TSEP), would not be able to receive funds until the entire \$250,000 has been deposited in noxious weed special revenue account, and there are sufficient funds available to provide to TSEP projects. This may result in local governments not receiving TSEP funds as early as they may be needed and requested.
9. There would be \$500,000 less in the 2003 biennium that would be available from the Treasure State Endowment account to award grants to local government for public infrastructure projects. This would result in funding one less project in HB 11. Based on the amended ranking order of projects, as proposed by the Joint Long Range Planning Subcommittee, this would mean the City of Havre would lose its project funding.

LONG-RANGE IMPACTS:

Department of Corrections

1. Weed control is a costly and ongoing effort. MCE Ranch will incur expenditures every year in its weed control efforts. The level of weed control done and the dollars expended have an impact on MCE Ranch

(continued)

operations and fiscal status. The success of weed control efforts has a major impact on agricultural lands and forage available

Department of Agriculture

2. Increased funding to the noxious weed management trust fund that will help the fund reach \$10 million as defined in 80-7-811.

Department of Commerce

3. There would be \$500,000 less each biennium that would be available from the Treasure State Endowment account to award local governments for public infrastructure projects. This would result in at least one project not being funded each biennium. In Sections 24 and 25 of the bill, the amendments to Sections 15-38-202 and 17-5-703 are extended out as far as FY 2015 for Section 15-38-202 and FY 2014 for Section 17-5-703 and provides the same funding for weed control programs.

TECHNICAL NOTES:

1. Under current law, weed control expenses incurred by businesses may be deducted from income in calculating personal income tax and corporation tax. Sections 5, 6, and 7 allow taxpayers to take a credit against income or corporation taxes for weed control expenses. This bill does not prevent taxpayers from both deducting weed control expenses in calculating taxable income and claiming the tax credit for the same expenses.

Department of Agriculture

2. Section 9 of SB 326 does not give the department the authority to withhold payments from county weed districts that don't submit a comprehensive weed management plan as required in Section 3
3. SB 326 does not change section 80-7-814 which allows for the expenditure of accumulated interest and revenue from the noxious weed management trust fund after the principal reaches \$2.5 million, except in the case of FY00 and FY01 transfer of non-restricted highway funds. In order for the trust fund to build the trust fund to \$10 million, a similar exception should be provided for new funding proposed in this bill. This exception should, however, allow the current interest income and other current revenues continue to be used in 80-7-814.
4. There is no provision on how the revenues will be expended when the noxious weed management trust fund reaches \$10 million. This could be addressed through a change to section 80-7-714.

FISCAL NOTE

Bill #: SB0326
weeds

Title: Generally revising laws governing

Primary Sponsor: Mike Taylor

Status: Senate 2nd reading

Sponsor signature

Date

Chuck Swysgood, Budget Director

2/28/01
Date

Fiscal Summary

	<u>FY2002 Difference</u>	<u>FY2003 Difference</u>
Expenditures:		
State Special Revenue	160,950	160,550
Revenue:		
State Special Revenue	60,000	60,000
Nonexpendable Trust Fund	40,000	42,800
Net Impact on General Fund Balance:	0	0

<u>Yes</u>	<u>No</u>		<u>Yes</u>	<u>No</u>	
X		Significant Local Gov. Impact	X		Technical Concerns
	X	Included in the Executive Budget	X		Significant Long-Term Impacts
	X	Dedicated Revenue Form Attached	X		Family Impact Form Attached

Fiscal Analysis

ASSUMPTIONS:

1. All counties will submit a copy of their comprehensive weed management plan to the MT Department of Agriculture and will implement a Noxious Weed Fund. Therefore, all counties will qualify for distribution of funds from Section 3. Each county would receive \$1,071 $[(100,000 \times 0.6) / 56]$.
2. \$40,000 $(100,000 \times 0.4)$ per year will be deposited in the Nonexpendable Noxious Weed Trust Fund.
3. Increased interest income from the noxious weed management trust fund of approximately \$2,800 $(\$40,000 \times 0.07)$ will be recognized in fiscal year 2003 and each year thereafter.
4. Existing staff will implement the provisions of SB 326.
5. Operating expenses include rules adoption at \$400 in FY02; printing costs at \$250 in FY02 and FY03; communications at \$300 in FY02 and FY03.

SB 326 #2

(continued)

6. This bill transfers \$100,000 per year from the highway nonrestricted account to the noxious weed account.

<u>FISCAL IMPACT:</u>	FY2002	FY2003
<u>Expenditures:</u>	<u>Difference</u>	<u>Difference</u>
Operating Expenses	950	550
Transfers	100,000	100,000
Distribution to counties	<u>60,000</u>	<u>60,000</u>
TOTAL	160,950	160,550
<u>Funding:</u>		
Noxious Weed Account (02)	60,950	60,550
Highway non-restricted account (02)	<u>100,000</u>	<u>100,000</u>
TOTAL	160,950	160,550
<u>Revenues:</u>		
Noxious Weed Account (02)	60,000	60,000
Noxious Weed Management Trust (09)	40,000	42,800
<u>Net Impact to Fund Balance (Revenue minus Expenditure):</u>		
Noxious Weed Account (02)	(950)	(550)
Highway non-restricted account (02)	(100,000)	(100,000)
Nonexpendable Trust Fund (09)	40,000	42,800

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

1. Increased annual funding to local weed districts with comprehensive management plans on file with the MT Department of Agriculture of \$1,071.

LONG-RANGE IMPACTS:

1. Increased funding at \$40,000 annually to the noxious weed management trust fund that will help the fund reach \$10 million as defined in 80-7-811.

1. TECHNICAL NOTES:

2. Section 3 of SB 326 does not give the department the authority to withhold payments from county weed districts that don't submit a comprehensive weed management plan as required in Section 1.
3. SB 326 does not change section 80-7-814 which allows for the expenditure of accumulated interest and revenue from the noxious weed management trust fund after the principal reaches \$2.5 million, except in the case of FY00 and FY01 transfer of non-restricted highway funds. In order for the trust fund to build to \$10 million, a similar exception should be provided for new funding proposed in this bill. This provision may be provided in the language of Section 3 where the monies are deposited into the trust fund as "principal." If the exception were to exist, it should allow the current interest income and other current revenues to continue to be used in 80-7-814.
4. There is no provision on how the revenues will be expended when the noxious weed management trust fund reaches \$10 million. This could be addressed through a change to section 80-7-714.
5. Section 25 codifies Section 3 into Title 80, Chapter 7, Part 7 - Weed Control. The Department of Agriculture currently administers the distribution of monies for weed management through the Noxious Weed Trust Fund program defined in Part 8 - Noxious Weed Management Funding.

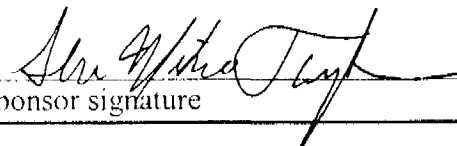
FISCAL NOTE

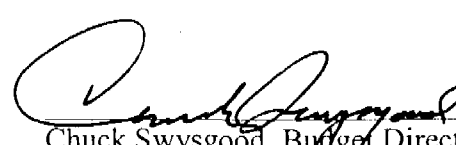
Bill #: SB 326

Title: Weed Eradication Through Native Environmental Techniques

Primary Sponsor: Mike Taylor

Status: House 2nd Reading


Sponsor signature _____ Date _____


Chuck Swysgood, Budget Director _____ Date 4-5-01

Fiscal Summary

	FY2002 Difference	FY2003 Difference
Expenditures:		
State Special - Noxious weed	\$100,000	\$600,000
Transfers:		
State Special - Noxious weed	\$0	\$500,000
Trust Funds - RIT	\$0	\$(500,000)
Revenue:		
State Special - Noxious weed	\$100,000	\$100,000
State Special - Highway non restricted	\$(100,000)	\$(100,000)
Net Impact on General Fund Balance:	\$0	\$0

<u>Yes</u>	<u>No</u>		<u>Yes</u>	<u>No</u>	
X		Significant Local Gov. Impact	X		Technical Concerns
	X	Included in the Executive Budget	X		Significant Long-Term Impacts
	X	Dedicated Revenue Form Attached	X		Family Impact Form Attached

Fiscal Analysis

ASSUMPTIONS:

1. This bill would transfer \$100,000 each fiscal year from the highway nonrestricted account to the noxious weed account.
2. In fiscal 2003, this bill would transfer up to \$500,000 from any amount greater than \$100 million in the Resource Indemnity Trust. The resource indemnity trust is projected to end fiscal 2002 with a balance of \$100.834 million.

SB 326#3

(continued)

3. All counties will submit a copy of their comprehensive weed management plan to the MT Department of Agriculture and will implement a Noxious Weed Fund. Therefore, all counties will qualify for distribution of funds from Section 3.

FISCAL IMPACT:

	<u>FY2002 Difference</u>	<u>FY2003 Difference</u>
<u>Expenditures:</u>		
Distribution to counties	100,000	600,000
<u>Transfers:</u>		
State Special - Noxious weed	\$0	\$500,000
Trust Funds - Resource Indemnity Trust	\$0	\$(500,000)
<u>Revenues:</u>		
State Special - Noxious weed	\$100,000	\$100,000
State Special - Highway nonrestricted	\$(100,000)	✓ \$(100,000)
<u>Net Impact to Fund Balance (Revenue minus Expenditure):</u>		
State Special - Noxious weed	\$0	\$0
State Special - Highway nonrestricted	\$(100,000)	\$(100,000)
Trust Funds - Resource Indemnity Trust	\$0	\$(500,000)

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

This bill specifies that the funds transferred to the noxious weed account from the highway not-restricted account and the resource indemnity trust are to be distributed to counties for weed control. The amount distributed to counties would be \$100,000 in fiscal 2002, \$600,000 in fiscal 2003, and \$100,000 in each succeeding fiscal year.

This bill changes county governments' authority to levy taxes for weed control. It contains a formula for a minimum level for funding and authorizes counties to impose a tax within a special management zone for weed control within the special management zone on approval by a majority of the voters in the zone.

TECHNICAL NOTES:

1. Section 3 of SB 326 does not give the department the authority to withhold payments from county weed districts that don't submit a comprehensive weed management plan as required in Section 1.
2. Section 27 codifies Section 3 into Title 80, Chapter 7, Part 7 - Weed Control. The Department of Agriculture currently administers the distribution of monies for weed management through the Noxious Weed Trust Fund program defined in Part 8 - Noxious Weed Management Funding.

4/03 Returned from Enrolling
 4/06 Signed by President
 4/10 Signed by Speaker
 4/10 Transmitted to Governor
 4/12 Signed by Governor
 4/12 Chapter Number Assigned
 Chapter Number 229
 Effective Date: 4/12/2001 - All Sections

3 324 Introduced by Harrington, et al.

LC0765 Drafter: Lane

Require Claims Against Chemical Dependency Facilities to Legal Panel

1/25	Introduced		
1/26	First Reading		
1/26	Referred to Public Health, Welfare and Safety		
2/14	Hearing		
2/14	Committee Executive Action--Bill Passed	7	0
2/15	Committee Report--Bill Passed		
2/16	2nd Reading Passed on Voice Vote	48	0
2/17	3rd Reading Passed	48	0

	Transmitted to House		
3/01	Referred to Human Services		
3/21	Hearing		
3/22	Committee Executive Action--Bill Concurred	18	0
3/22	Committee Report--Bill Concurred		
4/04	2nd Reading Concurred	96	4
4/05	3rd Reading Concurred	98	2

Returned to Senate
 4/05 Sent to Enrolling
 4/07 Returned from Enrolling
 4/10 Signed by President
 4/11 Signed by Speaker
 4/13 Transmitted to Governor
 4/23 Signed by Governor
 4/23 Chapter Number Assigned
 Chapter Number 370
 Effective Date: 10/01/2001 - All Sections

3 325 Introduced by Mahlum, et al.

LC1203 Drafter: Everts

Revise Rural Electric and Telephone Coop Laws

1/25	Introduced		
1/26	First Reading		
1/26	Referred to Taxation		
1/31	Fiscal Note Requested		
2/06	Fiscal Note Received		
2/06	Fiscal Note Signed		
2/06	Fiscal Note Printed		
2/07	Hearing		
2/09	Committee Executive Action--Bill Passed as Amended	5	4
2/09	Committee Report--Bill Passed as Amended		
2/20	2nd Reading Passed as Amended on Voice Vote	50	0
2/21	3rd Reading Passed	49	1

	Transmitted to House		
3/03	Referred to Taxation		
3/28	Hearing		
4/02	Committee Executive Action--Bill Concurred as Amended	19	1

4/03	Committee Report--Bill Concurred as Amended		
4/05	2nd Reading Concurred as Amended	98	2
4/07	3rd Reading Concurred	100	0

Returned to Senate with Amendments
 4/09 Sent to Enrolling
 4/09 Returned from Enrolling
 4/10 Signed by President
 4/17 Signed by Speaker
 4/19 Transmitted to Governor
 4/28 Signed by Governor
 4/28 Chapter Number Assigned
 Chapter Number 406
 Effective Date: 4/28/2001 - All Sections

SB 326 Introduced by Taylor, et al.

LC0096 Drafter: Lee Evans

Revise Laws Governing Weeds

8/21	Fiscal Note Needed		
1/25	Introduced		
1/26	Fiscal Note Requested		
1/26	First Reading		
1/26	Referred to Agriculture, Livestock and Irrigation		
2/01	Fiscal Note Received		
2/06	Fiscal Note Printed		
2/12	Hearing		
2/13	Tabled in Committee		
2/19	Taken from Table in Committee		
2/19	Committee Executive Action--Bill Passed as Amended	9	0
2/19	Committee Report--Bill Passed as Amended		
2/20	Revised Fiscal Note Requested		
2/21	2nd Reading Passed as Amended on Voice Vote	48	0
2/22	3rd Reading Passed	50	0

	Transmitted to House		
2/28	Revised Fiscal Note Received		
3/01	Revised Fiscal Note Signed		
3/02	Revised Fiscal Note Printed		
3/03	Referred to Appropriations		
3/23	Hearing		
3/28	Committee Executive Action--Bill Concurred as Amended	16	2
3/28	Committee Report--Bill Concurred as Amended		
3/31	Revised Fiscal Note Requested		
4/05	Revised Fiscal Note Received		
4/05	Revised Fiscal Note Signed		
4/06	2nd Reading Concurred	93	7
4/07	Revised Fiscal Note Printed		
4/07	3rd Reading Concurred	92	7

	Returned to Senate with Amendments		
4/10	2nd Reading House Amendments Concurred on Voice Vote	49	1
4/11	3rd Reading Passed as Amended by House	45	5
4/11	Sent to Enrolling		
4/12	Returned from Enrolling		
4/13	Signed by President		
4/17	Signed by Speaker		
4/19	Transmitted to Governor		
4/28	Signed by Governor		
4/28	Chapter Number Assigned		
	Chapter Number 407		
	Effective Date: 7/01/2001 - All Sections		

MINUTES

**MONTANA SENATE
57th LEGISLATURE - REGULAR SESSION
COMMITTEE ON AGRICULTURE, LIVESTOCK AND IRRIGATION**

Call to Order: By CHAIRMAN RIC HOLDEN, on February 12, 2001 at 3:15 P.M., in Room 422 Capitol.

ROLL CALL

Members Present:

Sen. Ric Holden, Chairman (R)
Sen. Pete Ekegren, Vice Chairman (R)
Sen. Mike Halligan (D)
Sen. Greg Jergeson (D)
Sen. Walter McNutt (R)
Sen. Arnie Mohl (R)
Sen. Linda Nelson (D)
Sen. Gerald Pease (D)
Sen. Corey Stapleton (R)
Sen. Jon Tester (D)
Sen. Tom Zook (R)

Members Excused: None.

Members Absent: None.

Staff Present: Laramie Cumley, Committee Secretary
Doug Sternberg, Legislative Services

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 326, SB 345 1/29/01 1/30/01
Executive Action: SB 259, SB 326, SB 345

HEARING ON SB 326

Sponsor: SEN. MIKE TAYLOR, SD 37, Proctor

Proponents: Ralph Peck, Director, Montana Department of Agriculture

REP. JOHN ESP, HD 25, Big Timber
John Moodry, Butte Silverbow Weed Supervisor
Steve Johns, Self

SENATE COMMITTEE ON AGRICULTURE, LIVESTOCK AND IRRIGATION

February 12, 2001

PAGE 2 of 15

Ed Grady, Self
Bob Gilbert, Rosebud County
Dave Schulz, Madison County Commissioner
Jim Ghekiere, Liberty County Weed Supervisor
Travis Chivallier, Park County Weed Board
Marty Malone, Self
Wayne Pearson, Stillwater County
Scott Bockness, Yellowstone and Bighorn County Weed
Boards
Doug Johnson, Cascade County Weed District
Paul Wick, Teton County
Jim Larson, Stillwater County
Jerry Weber, Carbon County
Jed Fisher, Flathead County
Kelly Leo, Madison County
Stacy Barta, Sweetgrass County
Rosemary Koch, Fergus County

Opponents: Patrick Montalban, Northern Montana Oil and Gas
Association

Stan Lund, Self
Sarah Carlson, Montana Association of Conservation

Districts
Bill Icenoggle, Glacier County Commissioner
Ed Maronick, Montana Contractor Association
Page Dringman, Montana Association of Realtors
Gail Abercrombie, Montana Petroleum Association
Annmarie Robinson, Bear Paw Development
Gary Feland, J & G Operating
George Friez, Gilman Construction

Opening Statement by Sponsor:

SEN. MIKE TAYLOR, SD 37, Proctor, said this is an economic bill for the state of Montana. Weeds are the most single detrimental environmental problem that they have today. He said if they could go back 30 years ago there was grass blowing in the wind on the hills in his district now they are black with the invasion of knapweed. He said they are losing native plants, wildlife, water quality, and scenic beauty at an alarming rate. He said the weed problem is costing over 100 million annually. He said there has been over 8 months of work put into this bill with information coming from weed boards, ranchers, farmers, urban people, legislators, and concerned citizens. In this bill, weed districts are encouraged to work directly with private industries to tackle these problems. He explained the amendments to the bill
SB032603.ak1.EXHIBIT(1) He also passed out amendment SB032604.ak1

EXHIBIT(2) He had testimony on the explanation of the bill, which he read for the committee. EXHIBIT(3)

{Tape : 1; Side : B ; Approx. Time Counter : 6.7 }

Proponents' Testimony:

Ralph Peck, Director, Montana Department of Agriculture, said they support this bill and realize that the funding still has to come from HB 2.

REP. JOHN ESP, HD 25, Big Timber, rose in support of this bill.

John Moodry, Butte Silverbow Weed Supervisor, discussed some information out of The Montana Weed Management plan book.

EXHIBIT(4) He said if they put forth a 300% increase in the fight of noxious weeds they would be able to keep the infestation of noxious weeds at their current point and perhaps reduce them. He said this bill is the first step in starting to fight these weeds.

Steve Johns presented testimony in favor of SB 326. EXHIBIT(5)

{Tape : 1; Side : B ; Approx. Time Counter : 11.9 }

Ed Grady said he is in favor of the amendment that allows 60 percent of the money to go back to the county of origin. He said he doesn't agree with the tax incentive part of the bill. He said most people take care of their land because they want to keep the value of their property up. He said landowners control their weeds even though they don't get any tax incentives or paid for spraying weeds.

Bob Gilbert, Rosebud County, said regardless of how many people or vehicles there are, all counties have weeds. He said weed distribution works that same way as education funds do, they are sent to each county in an equal distribution to fight these weeds. He said weeds need to be fought where the weeds are and not where the population is.

Dave Schulz, Madison County Commissioner, said this bill is the product of many hours of noxious weed management meetings. Some of the questions that came up during these meetings was how big of a problem is it in the state of Montana, how many dollars is it going to cost and who should be doing what. He said in the last two years private interest in the weed management problem is much higher. In Madison County they passed a Three Mill Levy three years ago and did the same thing last year. Because of that they have the dollars and the people to fight noxious weeds.

Jim Ghekiere, Liberty County Weed Supervisor said he supports this bill and presented letters of support from five other counties. EXHIBIT(6) He said the funding of this bill is very important as he has to work very hard just to get enough funding to keep a summer crew hired. He said two-thirds of his crew is funded through federal and state grants and this would help many of the smaller counties.

{Tape : 1; Side : B ; Approx. Time Counter : 21.5 }

Travis Chivallier, Park County Weed Board, rose in support of SB 326. EXHIBIT(7)

Marty Malone said this bill helps counties and landowners.

Wayne Pearson, Stillwater County, said he supports this bill as the money will be distributed evenly among all of the counties. He said there are a lot of counties in eastern Montana that have a low tax base and even if they have mill levies they can't raise much money because they don't have the tax base. This will help those smaller counties.

Scott Bockness, Yellowstone and Bighorn County Weed Boards, presented letters of support from both counties.
EXHIBIT(8) EXHIBIT(9)

Doug Johnson, Cascade County Weed District, rose in support of SB 326.

Paul Wick, Teton County, said this bill addresses critical funding for weed districts and is an important step in the control of noxious weeds in the state of Montana.

Jim Larson, Stillwater County, said subdivisions across the state are creating more problems for weed districts. He said they need this support and money to continue these programs to deal with growth.

Jerry Weber, Carbon County, said in their district they have quit growing grass and are growing houses. He said the mill levy has dropped by \$1500 and they would appreciate any support that they can get.

Ed Fisher, Flathead County presented letters of support for SB 326. EXHIBIT(10)

Kelly Leo, Madison County, rose in support of SB 326. EXHIBIT(11)

Stacy Barta, Sweetgrass County, said their county has a small population but is large on weed problems.

Rosemary Koch, Fergus County, rose in support of SB 326. She said they have a lot of weed problems in their district. It is expensive to spray these weeds and many landowners cannot afford it.

A letter of support from **Beaverhead County Commissioners** was also submitted. **EXHIBIT(12)**

{Tape : 2; Side : A ; Approx. Time Counter : 4.8 }

Opponents' Testimony:

Patrick Montalban, Northern Montana Oil and Gas Association said this a good idea but they are going into the RIT fund that has been around for over 27 years. He said this fund was started in 1973 and was started for reclamation of oil and gas wells and mining sites. He said 70 percent of the money that was raised to go into this fund came from the oil and gas companies in the state and 30 percent from mining. He said this fund was not set up to fight noxious weeds but for oil and gas wells that were drilled, mines that were developed and to reclaim these sites. He said about 10 years ago the fund was reaching around \$100 Million and instead of just using the interest off of this fund they used some of the principal. They began using 50 to 60 percent of the principal dollars in the \$100 million fund thus slowing the amount of money going into the RIT fund. He said if this bill passes, \$500,000 will be taken out of the RIT fund for noxious weeds. He said there are over 3,000 wells in Montana that need to be plugged and taken care of and this is a concern for the state also. He said it costs approximately \$100,000 per well to get them plugged but a private entity can come in and do it for 10 percent of that cost if the money is available through grants. He said the oil and gas industry has not caused the weed problem in this state and this money in the RIT fund needs to stay there for the plugging of abandoned oil and gas wells. He said there is a fund for noxious weeds and money should be raised to help solve these problems and the RIT fund should not be involved.

{Tape : 2; Side : A ; Approx. Time Counter : 11.7 }

Stan Lund said if \$500,000 is taken out of the RIT fund for noxious weeds, someone else in the oil and gas community is going to be hurt. He said there is \$600,000 allotted to the oil and gas industry to go and plug wells that have been abandoned. This money may be cut if it has to be used for noxious weeds. He said the other area that will be cut is some of the counties in the north central area of the state have grants and they plug wells

where there is a bonded operator. These operators plug wells and try to keep the costs down. He said this program is the most effective, cheapest well plugging program in Montana and should not be cut. He said noxious weeds are important, but this source of funding should not be used for this project.

Sarah Carlson, Montana Association of Conservation Districts, presented testimony in opposition to SB 326. EXHIBIT(13)

Bill Icenoggle, Glacier County Commissioner, stated they have a huge problem with noxious weeds, but don't feel this is the way to fund this project. The RIT funds were intended to mitigate environmental damage from non-renewable resource extraction, which came from oil and gas and hard rock mining. He said the industry that is paying into the fund should be the first in line to extract money from that fund. Glacier County was rewarded \$100,000 to plug abandoned oil wells. He stated if this funding mechanism goes for noxious weeds they will lose that funding. Operators can plug these wells for 1/10th of the cost, but if they are abandoned then the state oil and gas industry has to go in and plug them.

Ed Maronick, Montana Contractors Association , stated on page 14 of the bill they oppose this provision as it would stop all construction or mining that disturbs the ground until there is approval from the respective weed board. There are a lot of counties that don't have weed boards or don't meet regularly. This type of delay could be devastating to the construction community.

Page Dringman, Montana Association of Realtors, stated page 24, section 26 of the bill is a problem for realtors. She said two years ago the Association of Realtors agreed to put in language in the buy-sell agreement of property to include a noxious weeds disclosure. She read this disclosure. This was done voluntarily and they worked with the Montana Weed Control Association. A member from the Montana Association of Realtors sits on the Weed Board of Directors and they also partake in weed related education for realtor awareness. This bill mandated disclosure on property being sold. The problem is many realtors are not experts on noxious weeds and depending on what time of year the property is sold they don't know what kind of noxious weeds there are. She also explained there is a lot of turn around of property in the state and many owners don't know if they have noxious weeds on the property or not. One option that could be looked at is an inspection contingency where buyers can check for noxious weeds. The current language could be a liability issue, plus there are real estate actions that take place without a real estate agent being involved.

{Tape : 2; Side : A ; Approx. Time Counter : 28.1 }

Gail Abercrombie, Montana Petroleum Association, stated they oppose the funding for this program. The funds that are in the RIT fund are from the oil and gas, mining and mineral industry. Funding for the coal bed methane environmental impact statement could bring \$441 Million to the state. Funding for this impact statement could be jeopardized by this piece of legislation.

Annmarie Robinson, Bear Paw Development, said the Treasure State Endowment fund was established in 1992 for infrastructure and improvement for water, sewer, storm drains, and bridges. She said their district utilizes this funding source to keep their infrastructure rates affordable to their members. This would hurt their city if this bill is passed.

Gary Feland, J & G Operating, said RIT funds have been used to plug wells. He said weeds need to be controlled, but the funding needs to come from somewhere else.

George Friez, Gilman Construction, stated they support a weed program but oppose section 22 which sets no time limitation for the weed board to approve a weed plan for construction pits.

City of Richey was also in opposition to SB 326.

{Tape : 2; Side : B ; Approx. Time Counter : 6.0 }

Questions from Committee Members and Responses:

SEN. COREY STAPLETON asked if tax credits and deductions were covered in this bill.

SEN. TAYLOR said this was covered in amendment #9.

SEN. STAPLETON asked if by going into the RIT fund are they violating what that money was originally to be used for.

SEN. TAYLOR said he is looking at a problem that the state needs to address and a probable funding source. He said he would like a source of funding without raising taxes.

SEN. STAPLETON stated the Department of Transportation is a good source of funding and a portion of noxious weeds are funded by their Department. He asked if there is money in the Department of Transportation to fund this project.

John Black, Montana Department of Transportation stated their department budgeted \$1.2 Million that is allocated to individual counties for the control of noxious weeds. The additional

\$400,000 that is being proposed in this bill cannot come from their Department.

SEN. JON TESTER asked if the Department of Transportation has taken over all of the secondary roads and weed control on those roads.

John Black said that is correct.

SEN. TESTER asked what kind of cost increase was there for secondary roads.

John Black stated before they took over secondary roads their budget was \$842,000. He said they did not take over weed control on those roads until January 1, 2001 because they were not budgeted for it. They put in a proposal for the program of 28 percent, which is \$1.2 Million.

SEN. TESTER asked if funds from the RIT fund had ever been taken out and used for other projects besides what they are set aside for.

John Tubbs, DNRC, said there has been times when the funding has been looked at, but in the last ten years it has not been used for anything extra.

SEN. LINDA NELSON asked where the status for the funding of this bill is right now and would Finance and Claims deal with it or another committee.

SEN. TAYLOR said it depends on how and where they are going to get the funding. He said he felt the House would take care of the appropriations and the funding mechanism in the bill would be changed or reduced. The Governor is very concerned with weeds and made it part of her campaign to do something about these problems. He said he would like to get funding without raising taxes.

SEN. ARNIE MOHL asked how much money or effort is going to come from the railroad association.

SEN. TAYLOR said he did not know the number for sure.

Barbara Mullen, Department of Agriculture, said when they developed the Montana Weed Management Plan, they researched how much everyone was spending and they did not get a good answer from the railroads because they are a private industry.

SEN. MOHL said if a highway construction crew had to wait to get approval from the weed board to start a project it will only delay more jobs and there needs to be a time limit.

SEN. TAYLOR said he has no problem with that and it could be put in as a sunset. He stated this bill won't affect any projects for two years as it is.

SEN. MOHL said he is concerned more about delaying jobs because there is another department involved to get through all the hoops.

{Tape : 2; Side : B ; Approx. Time Counter : 20.9 }

SEN. MIKE HALLIGAN asked where the money was coming from specifically in this fund whether it was from gasoline tax, etc.

SEN. HOLDEN said they didn't know that specifically.

SEN. HALLIGAN asked why don't they raise the motor vehicle tax for noxious weeds as a way to solve this funding problem.

SEN. TAYLOR stated this would have to be done by a vote of the people and will probably be done in the future. This won't solve the problem that they have for this biennium though.

SEN. GREG JERGESON explained one of the reasons that there is a fee on vehicles is because of their mobility. There are other mobile entities that raise money for the weed program such as combines and cattle. However, they are on a scheduled reduction and each year less goes into the weed fund. He asked if there would be a way to adjust these fees on mobile units to help backfill this fund.

SEN. TAYLOR said he didn't think so.

Closing by Sponsor:

SEN. TAYLOR stated he understands that the money from the RIT fund is used to plug wells. But there are roads built to these wells that people drive on thus creating weeds. He asked if weeds are a priority for this state? He stated if they don't fund this they will lose more jobs than they would gain. Weeds take wildlife, water, native grasses, and the environment. He said he does not have all the answers for the funding right now, but this bill is very important and is the right step for the state. Not everyone is going to get what they want but this bill is too important to throw away. It is the obligation of the realtors to educate the buyers on what they are purchasing.

{Tape : 3; Side : A ; Approx. Time Counter : 5.9 }

HEARING ON SB 345

Sponsor: SEN. JOHN COBB, SD 25, Augusta

Proponents: None

Opponents: Holly Franz, Tee Bar Ranch Company
Mike Murphy, Montana Water Resource Association

Opening Statement by Sponsor:

SEN. JOHN COBB, SD 25, Augusta, read the title of the bill. He said right now you can use, lose, sell or lease water. He said why can't water be shared also. He used the example of a rancher that has 40 inches of water and another rancher who has 40 inches and they could put them together and irrigate one place in less time and then go to the next place. There would be more in-stream flow and is set up like an irrigation district where people use the water more efficiently. However, this concept is illegal because it is not actual law. He read page 1, line 15-18. He stated in section 2 of the bill if a person has adjudicated water rights only those neighbors that are contiguous to each other can share water. He explained more of section 2 on page 2. He stated there is also an objection section on line 24, page 2 of the bill. He stated there are people already doing this and this would make it legal. Plus there are many others who would like to do this, but don't have any guidelines to follow and this gives them another option.

{Tape : 3; Side : A ; Approx. Time Counter : 10.3 }

Proponents' Testimony: none

Opponents' Testimony:

Holly Franz, Tee Bar Ranch Company, rose in opposition to SB 345. EXHIBIT(14)

Mike Murphy, Montana Water Resource Association also opposed SB 345.

{Tape : 3; Side : A ; Approx. Time Counter : 16.5 }

Questions from Committee Members and Responses:

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON APPROPRIATIONS

Call to Order: By **CHAIRMAN STEVE VICK**, on March 23, 2001 at 8:00 A.M., in Room 102 Capitol.

ROLL CALL

Members Present:

Rep. Steve Vick, Chairman (R)
Rep. Dave Lewis, Vice Chairman (R)
Rep. Matt McCann, Vice Chairman (D)
Rep. John Brueggeman (R)
Rep. Rosalie (Rosie) Buzzas (D)
Rep. Tim Callahan (D)
Rep. Edith Clark (R)
Rep. Bob Davies (R)
Rep. Stanley Fisher (R)
Rep. Joey Jayne (D)
Rep. Dave Kasten (R)
Rep. Christine Kaufmann (D)
Rep. Monica Lindeen (D)
Rep. Art Peterson (R)
Rep. Joe Tropila (D)
Rep. John Witt (R)

Members Excused: Rep. Dick Haines (R)
Rep. Jeff Pattison (R)

Members Absent: None.

Staff Present: Paula Broadhurst, Committee Secretary
Taryn Purdy, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 244, SB 179, SB 326,
3/23/01.
Executive Action: None.

HEARING ON SB 326

Sponsor: Senator Mike Taylor, SD 37.

Proponents: John Moodry, Butte Silverbow Weed District,
Dave Schultz, Commissioner Madison County and Chair
Montana Weed Summit,
Page Dremland, Montana Association of Realtors,
Marty Malone, Self,
Clay Williams, Park County Weed Control,
Will Kissinger, Montana Department of Agriculture,
Rep. John Esp, HD 25,
John Youngberg, Montana Farm Bureau,
Bob Gilbert, Self,
Kelly Leo, Madison County Weed Department,
Richard Fairweather, Meagher County Weed District.

Opponents: None.

Informational Witnesses: None.

Opening Statement by Sponsor:

Senator Taylor said this bill deals with governing weeds. The weeds issue seems to get put in the background, studies have shown we are losing our environment as we know it, at a rapid pace. He handed out pictures of Missoula's landscape, EXHIBIT(3). Wildlife is disappearing because there is no food for them. He said there is an amendment offered by realtor's that states if a piece of property is sold, and it has noxious weeds, the seller of the property has to tell the seller agent.

Proponents' Testimony:

{Tape : 1; Side : B; Approx. Time Counter : 24.2}

John Moodry said the battle against infestations is not being won yet. This legislation would free up his time to work with the U.S. Forest Service BLM and other agencies to build working relationships. He said the Butte Silverbow Weed District supports SB 326.

Dave Schultz said they support SB 326.

{Tape : 2; Side : A; Approx. Time Counter : 0.2}

Page Dremland said they support SB 326. She spoke of the amendment offered in which the seller notifies the agent and the purchaser of their weeds.

Marty Malone said noxious weeds are the greatest environmental threat to Montana right now. This bill allows counties to create and tax land owners that vote to tax themselves to a special management district. It allows counties to create a cost share program for land owners if funds are available within the county. He supports SB 326.

Clay Williams said he represents Park County and Weed Board and Commissioners and they support SB 326.

Will Kissinger said they support SB 326, he said there must be a handle on the situation of the weeds in Montana.

Rep. John Esp supports SB 326.

John Youngberg supports SB 326.

Bob Gilbert supports SB 326.

Kelly Leo supports SB 326.

Richard Fairweather supports SB 326.

Rep. Tropila said his weed supervisor, **Doug Johnson**, supports SB 326.

Opponents' Testimony: None.

Questions from Committee Members and Responses:

Rep. McCann asked **Senator Taylor** about wildlife spreading weeds. **Senator Taylor** said she thinks wildlife have a distinct relationship in spreading noxious weeds.

Rep. Witt asked **Senator Taylor** about bringing the National Forest forward about weed control. **Senator Taylor** said there was a resolution that was passed a few weeks ago, that they strongly suggest the Federal Government cooperate in this.

Rep. Kasten made a comment about not letting hunters drive on his land.

Rep. Witt asked questions to **Dave Schultz** regarding conservation easements.

Closing by Sponsor:

{Tape : 2; Side : A; Approx. Time Counter : 17}

Rep. Lewis closed for Senator Taylor.

Rep. Kasten commented about the private landowners and the BLM not holding up their part.

Rep. Buzzas asked if there was a statewide weed control plan.

Rep. Lewis handed in information about what Rep. Gallus stated. EXHIBIT(4).

Rep. Lewis spoke to committee on HB 307 about the industry.

Dr. Donovan, College in Butte, speaks to committee on the discussion on HB 307.